United Nations A/C.3/61/SR.24

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Sixty-first session

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## Third Committee

**Summary record of the 24th meeting**
Held at Headquarters, New York, on Thursday, 19 October 2006, at 3 p.m.

*Chairman*: Mr. Al Bayati ..... (Iraq)

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(c) Human rights situations and reports of special rapporteurs and representatives (*continued*)

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06-57884 (E)

*The meeting was called to order at 3.15 p.m.*

**Agenda item 67: Promotion and protection of human rights** (*continued*)

**(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms** (*continued*)

**(c) Human rights situations and reports of special rapporteurs and representatives** (*continued*)

*Draft resolution A/C.3/61/L.13: Consequences of the Israeli invasion for the human rights situation in Lebanon*

1. **Mr. Amorós Núñez** (Cuba), introducing the draft resolution on behalf of the sponsors, said that the elimination of conflict and the attainment of peace were crucial for the development of human rights. The Israeli military operations in Lebanon constituted gross and systematic human rights violations and affected the positive achievements that had been made in that country. Just as Lebanon had been preparing to make enormous changes, its people had suddenly found themselves deprived of the most fundamental of all human rights: the right to life.

**Agenda item 60: Social development** (*continued*)

**(c) United Nations Literacy Decade: education for all** (*continued*)

*Draft resolution A/C.3/61/L.4: United Nations Literacy Decade: education for all*

2. **The Chairman** informed the Committee that the draft resolution had no programme budget implications and recalled that it had been orally revised at the time of its introduction.

3. **Ms. Enkhtsetseg** (Mongolia) said that the following delegations had joined in sponsoring the draft resolution: Afghanistan, Albania, Andorra, Angola, Antigua and Barbuda, Armenia, Austria, Azerbaijan, Barbados, Belarus, Belgium, Belize, Benin, Bosnia and Herzegovina, Botswana, Bulgaria, Burkina Faso, Burundi, Canada, China, Colombia, Congo, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Djibouti, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Finland, France, Georgia, Germany, Ghana, Greece, Guyana, Honduras, Hungary, Iceland, Indonesia, Iraq, Ireland, Jamaica, Japan, Kenya, Latvia, Lebanon, Lesotho, Libyan Arab Jamahiriya, Lithuania, Luxembourg, Malawi, Malaysia, Mali, Malta, Mauritania, Moldova, Morocco, Mozambique, Namibia, Nepal, Netherlands, Niger, Nigeria, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Saudi Arabia, Sierra Leone, Slovenia, South Africa, Spain, Sri Lanka, Swaziland, Sweden, Switzerland, Timor-Leste, Turkey, Uganda, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Uzbekistan, Venezuela, Viet Nam and Zambia.

4. Paragraph 9 of the draft resolution should be revised to read: "*Invites* Member States, the relevant intergovernmental and non-governmental organizations to take an active part in the preparation and organization of high-level regional conferences scheduled to be held in 2007-2008 in Qatar, Azerbaijan, Mali, Costa Rica and in Asia and the Pacific aimed at marshalling high political commitment, building an effective partnership among all the stakeholders and mobilizing resources needed for achieving the goals of the United Nations Literacy Decade and its International Plan of Action". In the third preambular paragraph, the phrase before "critical role" should be replaced by "*Reaffirming* the emphasis placed by the 2005 World Summit Outcome[2] on". The following phrase should be inserted at the end of paragraph 10: "including through programmes that promote low-cost and effective literacy provision".

5. *Draft resolution A/C.3/61/L.4, as orally revised, was adopted.*

**(d) Follow-up to the Second World Assembly on Ageing** (*continued*)

*Draft resolution A/C.3/61/L.6: Follow-up to the Second World Assembly on Ageing*

6. **The Chairman** announced that the draft resolution had no programme budget implications.

7. **Ms. Hoosen** (South Africa), speaking on behalf of the sponsors, said that the following delegations had joined in sponsoring the draft resolution: Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Japan,

Kazakhstan, Latvia, Lithuania, Luxembourg, Malta, Mexico, Moldova, Monaco, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, Romania, Russian Federation, San Marino, Slovakia, Spain, Sweden, Turkey, United Kingdom and United States of America.

8. In paragraph 3, the words "including caregivers" should be inserted after "community-based organizations." In paragraph 6, the words "*Calls upon*" should be replaced by "*Encourages*". The following phrase should be inserted after "in 2002" in paragraph 9: "as well as policy recommendations for further implementation of the Madrid International Plan of Action on Ageing". In the same paragraph, the words "including best practices" should be inserted after "appraisal" and the words "for Social Development" should be inserted after "Commission". Lastly, in paragraph 11, the words "and to mark the commemoration" should be replaced by "including information on the commemoration".

9. *Draft resolution A/C.3/61/L.6, as orally revised, was adopted.*

**Agenda item 98: Crime prevention and criminal justice** (*continued*)

*Draft resolution A/C.3/61/L.2: Strengthening the United Nations Crime Prevention and Criminal Justice Programme and the role of the Commission on Crime Prevention and Criminal Justice as its governing body*

10. **The Chairman** informed the Committee that the draft resolution was being referred to the Fifth Committee in accordance with General Assembly resolution 45/248 B.

*Draft resolution A/C.3/61/L.3: International cooperation in the prevention, combating and elimination of kidnapping and in providing assistance to victims*

11. **Mr. Khane** (Secretary of the Committee), presenting a statement of programme budget implications in accordance with rule 153 of the rules of procedure of the General Assembly, said that under paragraph 6 of the draft resolution, the General Assembly would request the United Nations Office on Drugs and Crime, within available extrabudgetary resources, not excluding the use of existing resources from the regular budget of the Office, to provide to Member States, upon request, technical assistance and advice in implementing the provisions of the operational manual. Were the General Assembly to adopt the draft resolution, implementation of paragraph 6 would entail the provision of technical assistance and hence give rise to financial implications. He drew the Committee's attention to paragraph 67 of the first report of the Advisory Committee on Administrative and Budgetary Questions on the proposed programme budget for the biennium 2000-2001 (A/54/7), which indicated that the use of the phrase "within existing resources" or similar language in resolutions had a negative impact on the implementation of activities. Efforts should therefore be made to avoid the use of the phrase in resolutions and decisions.

12. *Draft resolution A/C.3/61/L.3 was adopted.*

*Draft resolution A/C.3/61/L.7/Rev.1: Improving the coordination of efforts against trafficking in persons*

13. **Mr. Khane** (Secretary of the Committee), presenting a statement of programme budget implications in accordance with rule 153 of the rules of procedure of the General Assembly, said that, were the General Assembly to adopt draft resolution A/C.3/61/L.7/Rev.1, an estimated $1.49 million would be required from extrabudgetary resources to provide for the coordination of the activities of the inter-agency coordination group on trafficking in persons, the holding of biannual coordination meetings, the preparation, printing and distribution of the biennial report *Trafficking in persons: global patterns* and the maintenance of the database and website on trafficking in persons. The proposals on strengthening the capacities of the United Nations Office on Drugs and Crime for the coordination of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime would be considered in the context of the report to be submitted by the Secretary-General to the Assembly at its sixty-third session. Therefore, the adoption of the draft resolution would not have any implications for the programme budget for the biennium 2006-2007.

14. **Mr. Dapkiunas** (Belarus), introducing the draft resolution, said that Angola, Benin, Indonesia, Islamic Republic of Iran, Liberia, Libyan Arab Jamahiriya, Mexico, Senegal, Sierra Leone and Thailand had become sponsors. The draft resolution established a simple, results-oriented mechanism for better

coordinating efforts, preventing waste of time and resources and promoting greater openness and transparency. His delegation hoped that the United Nations Office on Drugs and Crime (UNODC), the International Organization for Migration (IOM), the United Nations Children's Fund (UNICEF), the International Criminal Police Organization (Interpol) and other international agencies would promptly put that mechanism to good use. There was a need for a global effort by both developed and developing countries, whether countries of origin, destination or transit, to help eradicate all forms of slavery.

15. **Mr. Wigwe** (Nigeria) said that his Government had enacted a law to combat trafficking in persons, a serious crime that inhibited the social, cultural and technological development of countries from which trafficked persons originated. It was concerned at the increase in such trafficking and the exposure of victims to various forms of exploitation and, in too many cases, loss of life. As most victims came from the developing world, particularly sub-Saharan Africa, the draft resolution should receive the Committee's full support, and result in more concerted efforts by the international community. He hoped that the draft resolution would be adopted without a vote.

16. **Ms. Banzon-Abalos** (Philippines) said that developing and implementing a holistic approach to combating trafficking in persons demanded a commitment to enhanced global cooperation in that sphere. The draft resolution would strengthen that commitment. She urged States to ensure that, in the fight against trafficking, the humanity of victims was never forgotten.

17. *Draft resolution A/C.3/61/L.7/Rev.1 was adopted.*

18. **Ms. Shestack** (United States of America), speaking in explanation of position, said that in line with its Trafficking Victims Protection Act of 2000, her Government considered trafficking in persons to be synonymous with modern-day slavery. In that connection, she recalled the resolution adopted by the Commission on the Status of Women at its forty-ninth session highlighting the demand aspect of human trafficking (resolution 49/2).

19. **Ms. Rawls** (Palau) said that her delegation commended the sponsors of the resolution but was concerned about plans to base the inter-agency coordination group in Vienna. Many smaller and developing States such as her own did not have the means or the capacity to maintain representation in that city. That would affect their access to the group and the exchange of views which the resolution encouraged. Her delegation would therefore welcome arrangements to facilitate its participation in the group.

20. **Mr. Fleschi** (France) said that his delegation had joined the consensus on the resolution and was in favour of improving the coordination of efforts against trafficking in persons. Nevertheless, in view of the work of the States parties to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, the adoption of the resolution seemed premature.

21. **Mr. Suárez** (Colombia) said that while his delegation had not sponsored the resolution, it had participated in various meetings on the subject and attached great importance to the fight against trafficking in persons. His Government had just adopted a national anti-trafficking strategy which involved the participation of the State, civil society and international bodies such as the United Nations Office on Drugs and Crime. Any decision aimed at enhancing multilateral and international cooperation to fight that scourge was important.

22. **Mr. Alakhder** (Libyan Arab Jamahiriya) said that the adoption of the resolution was a milestone in efforts to combat crimes against humanity and human dignity, which posed a threat to the fundamental freedoms of humankind.

**Agenda item 67: Promotion and protection of human rights** (*continued*) (A/61/36, 97, 220 and 280)

**(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms** (*continued*) (A/61/211, 267, 281, 287, 289, 306, 311, 312, 324, 325, 338, 340, 348, 352, 353, 384, 464, 465, 476, 506 and 513)

**(c) Human rights situations and reports of special rapporteurs and representatives** (*continued*) (A/61/276, 349, 360, 369, 374, 469, 470, 475, 489, 504 and 526)

23. **The Chairman** invited the Committee to continue its general discussion of agenda items 67 (b) and (c).

24. **Mr. Dugard** (Special Rapporteur on the situation of human rights in the Palestinian territories occupied by Israel since 1967), introducing his report (A/61/470), said that the serious violations of human rights and international humanitarian law committed by Israel in the occupied Palestinian territories had worsened over the past year. Gaza had been subjected to a protracted assault since 25 June 2006, when a group of Palestinian militants had attacked an Israeli military base near the Israeli-Egyptian border, killing two Palestinians and two Israelis. In retreating, the militants had captured Israeli Corporal Gilad Shalit and had demanded the release of Palestinian women and children being held in Israeli jails in return for his release. That act, and the continued launching of Qassam rockets into Israel, had unleashed a savage response from the Israeli Government which had taken several forms, including repeated military incursions into Gaza, in which militants and civilians had been killed, houses destroyed and agricultural land bulldozed. To date, some 280 people had been killed, including 60 children, and over 900 injured. At least half those victims had been civilians. Israeli forces had also subjected Gaza to relentless bombardments and sonic booms, inflicting a reign of terror on Gaza's population. Poverty in Gaza had reached levels such that three quarters of the population were unable to feed themselves without assistance, mainly as a result of the Israeli siege.

25. While the Israeli Government justified its actions as a security operation designed to put an end to the firing of Qassam rockets into Israel and as pressure aimed at securing the release of Corporal Shalit, those actions had been excessive. Israeli forces had attacked civilian targets directly and destroyed property randomly, with no military justification. The population was facing a humanitarian crisis as a result of the destruction of power plants, water supplies, bridges and schools, the restrictions imposed on imports of medical supplies and foodstuffs and the closure of Gaza's borders. In short, Israel had subjected the people of Gaza to collective punishment, in clear violation of article 33 of the Fourth Geneva Convention.

26. In the West Bank and East Jerusalem, the Israeli Government was continuing to build a 700-kilometre security wall, 80 per cent of which was in Palestinian territory. It now acknowledged openly that the wall served the political purpose of incorporating some 190,000 settlers into Israel itself, in complete disregard of the 9 July 2004 Advisory Opinion of the International Court of Justice (ICJ) stating that the wall was illegal. The wall's humanitarian impact was severe, in that it prevented Palestinians living in the "closed zone" between the Green Line and the wall from having free access to schools, hospitals and places of employment in the West Bank, while those living alongside the wall in the West Bank could not gain access to their farms in the "closed zone" without permits from Israel, which were often refused arbitrarily. Many Palestinian farmers had thus been forced to abandon their land, becoming a new category of internally displaced persons. The staggering increase in the number of checkpoints and roadblocks had fragmented the West Bank and, in many cases, their purpose was not to enhance security but to make Palestinians continually aware of Israeli power. Israel was extending its control over the Jordan Valley. The wall being built in south Hebron separated Palestinian homes from grazing and agricultural lands, while in East Jerusalem it attached more Palestinian land to Israel.

27. Violence towards Palestinians and their property continued, as military incursions, targeted assassinations, arbitrary arrests and house demolitions continued to characterize the Israeli occupation. There were also more than 10,000 Palestinians in Israeli jails.

28. While not as severe as in Gaza, a serious humanitarian crisis prevailed in the West Bank as a result largely of the suspension of funding for the Palestinian Authority since Hamas had been elected to office. As the occupied Palestinian territories had been heavily dependent on foreign funding since 1994, the suspension of funding had had a severe impact on Palestinian society. In effect, the Palestinian people had been subjected to economic sanctions, the first time that an occupied people had been treated in that way.

29. Thus, the Israeli Government flouted international law with impunity, while the Palestinian people was severely punished for having elected democratically a regime that was unacceptable to Israel, the United States and the European Union. As a member of the Quartet, which had in effect condoned the economic measures taken against the Palestinian people, the United Nations, and hence Member States, bore some of the blame for the humanitarian crisis.

30. The litany of violations of human rights and humanitarian law was difficult to reconcile with Israel's stated commitment to the rule of law and could not be justified in terms of the war on terror. Israel was an occupying Power in an age in which military occupation of territory was no longer acceptable and it wielded its power arbitrarily, showing little compassion for those it occupied and denying them the right of self-determination.

31. **Ms. Rasheed** (Observer for Palestine) said that the Palestinian people were being subjected to economic sanctions while Israel continued to flout countless Security Council and General Assembly resolutions and the ICJ Advisory Opinion. She would therefore welcome the Special Rapporteur's views on how the United Nations could reconcile its role as a member of the Quartet, which had recently imposed conditions on the Palestinian people that increased their suffering and hardship, with its role as an organization intended to protect the human rights of all peoples. She also wished to know what action the United Nations could take during the critical period currently faced by the Palestinian people and what the international community should do if the United Nations failed to take appropriate measures.

32. **Ms. Pato** (Togo) said that it seemed that certain human rights violations were considered acceptable, while others were not. He wondered what the international community's position would have been had the situation described by the Special Rapporteur arisen in a developing country. He asked the Special Rapporteur whether he had any specific suggestions to make for securing an end to Israeli bombings and resolving the current crisis.

33. **Ms. Yetken** (United States of America) said that any resolution on the civilian impact of the ongoing Israeli-Palestinian conflict must include a condemnation of Palestinian acts of terror, including the numerous rocket attacks launched from Gaza into Israel following the Israeli withdrawal. Referring to the Special Rapporteur's report, she stressed that it was her Government's policy to support the Road Map, which imposed obligations on both parties and was the only international peace plan endorsed by them. Concerning the situation in Gaza, her Government had joined with its Quartet partners in calling on the parties fully to implement their obligations on movement and access.

34. Her Government took a different view of several issues raised in the report: the United States did not consider the ICJ Advisory Opinion to have made a useful contribution to the parties' efforts to resolve their differences and felt that the security wall should not be construed as predetermining final status issues between them. It disagreed with the suggestion that the Road Map was out of date and needed revision. What was important was not the dates suggested for attaining individual steps, but the parties' commitment to the steps and to the process leading to a two-State solution through dialogue and the parallel implementation of obligations. The Quartet had recently reaffirmed that commitment and welcomed the prospect of a meeting between Prime Minister Ehud Olmert and President Mahmoud Abbas in the near future.

35. **Mr. Israeli** (Israel) said that the mandate of the Special Rapporteur, which called for examining only one side of the issue, undermined honest dialogue and politicized his report. The report ignored the context of events, oversimplified the situation and was characterized by omissions and distortions. It ignored the fact that Israeli checkpoints were targets of Palestinian terrorism and that was what led to border closures which, in turn, led to the difficult humanitarian situation in which the Palestinians were living. The Palestinian leadership had stated unambiguously that their aim was bloodshed. Meanwhile, the Road Map accepted by the Quartet and the United Nations offered the best hope for a settlement.

36. **Mr. Huimasalo** (Finland), speaking on behalf of the European Union, asked what were the most meaningful measures that could be taken by both parties to the conflict. He also requested details of the operation of the Temporary International Mechanism created to facilitate needs-based assistance to Palestine and asked whether the Special Rapporteur had any recommendations for its functioning.

37. **Mr. Ramadan** (Lebanon) said that there was nothing new in the Special Rapporteur's report and that the story was the same every year. The Israeli occupation was the root cause of the problems in the occupied Palestinian territories. In the current year, many civilians had been killed, in particular, by cluster bombs dropped by Israeli forces. Two months after the end of the conflict in Lebanon, such devices were killing an average of four Lebanese civilians a day. He asked whether, in the opinion of the Special

Rapporteur, those acts were gross and systematic violations of human rights.

38. **Mr. Dugard** (Special Rapporteur on the situation of human rights in the Palestinian territories occupied by Israel since 1967) said that it was difficult to reconcile the United Nations role in the Quartet with its international commitments. The Quartet had condoned economic measures against the Palestinian people, which was not the same as condoning economic measures against a government. As a member of the Quartet, the United Nations had failed to follow its normal procedures in imposing economic sanctions. The Security Council should look into the matter, as there was growing concern that the Quartet was subject to the influence of certain Powers.

39. The most significant measure that the two parties could take would be to resume talks. He was not opposed to a two-State solution, but felt that the Road Map did not inspire confidence because it was under the control of the Quartet, which had not proved impartial. The issue should be returned to the Security Council as soon as possible.

40. The Temporary International Mechanism was helpful to the Palestinian people and was functioning well. It was necessary to ensure that medical supplies got through Israeli checkpoints into Gaza. Palestinian medical authorities had indicated during the summer that supplies were not being received. Funding to the Palestinian Authority had been discontinued and since the Palestinian Authority controlled health care in the Palestinian territories, that had an impact on health funding.

41. Israeli human rights violations were indeed systematic. His mandate was limited to investigating violations committed by Israelis, not Palestinians, although in the past the Special Rapporteur's reports had referred to abuses committed by the Palestinian Authority. It would be helpful if Corporal Gilad Shalit was released and Palestinian prisoners were released in exchange. The Israeli argument that checkpoints were targeted by Palestinian terrorists was not a convincing one. It would also be helpful if all parties stopped using the word "terrorism", which was not conducive to finding a political solution. The Sixth Committee had been unable to define terrorism and many people who had gained reputations as statesmen had, earlier on in their careers, been called terrorists. Israel's use of the term risked painting the Israeli authorities into a corner, because once people were labelled terrorists, it was difficult to negotiate with them. The Road Map was indeed the only solution, but it did not give sufficient consideration to issues of human rights and self-determination.

42. **Ms. Halabi** (Syrian Arab Republic) said that the principal cause of the problems in the Palestinian territories was the Israeli occupation, which was supported by a super-Power. The Palestinian and Lebanese peoples were the object of State terrorism. The Israeli blockade was total and human rights, including the rights of women, were being violated under the occupation.

43. **Mr. Saeed** (Sudan) said that the report painted a tragic picture of human rights violations. A super-Power was using its vote in the Security Council to block resolutions that would put a stop to the violations being committed by Israel. Thus, there was a selectivity in the way in which countries were cited for human rights violations that threatened the credibility of the United Nations. The General Assembly had requested a report on Israel's separation wall. The wall was being built, but no report had been produced. It was hard to see what measures could be taken if the occupying Power was being protected by another Power and the recommendations and proposals of the Security Council and the General Assembly were not being implemented.

44. **Mr. Amorós Núñez** (Cuba) said that the situation in the occupied Palestinian territories was a clear example of double standards in human rights. A hypocritical silence on the Palestinian situation was typical among many of those who spoke up most often about human rights violations elsewhere. It was clear why the super-Power in question supported Israel; occupation was a component of its foreign policy. It was the aggressors who must be condemned, not the victims.

45. **Mr. Hayee** (Pakistan) asked whether, given the Security Council's inability to act, the General Assembly could step in to fill the gap.

46. **Ms. Gendi** (Egypt) congratulated the Special Rapporteur on his strenuous efforts to address the intolerable human rights situation in the occupied Palestinian territories. She wondered why the entire international community was not making a concerted effort to end the Israeli occupation and protect the human rights of Palestinian women and children. Not

only had there been an unmistakable slackening of international political will, but human rights criteria were being applied differently from region to region. She agreed with the representative of the Sudan that United Nations credibility was at stake. Neither the in-depth study on violence against women (A/61/122/Add.1) nor that on children (A/61/299) prepared by independent experts appointed by the United Nations had made any reference to such violence perpetrated under foreign occupation.

47. Increased political will was needed to end the Israeli occupation, demolish the separation wall and start working towards a two-State solution in which Israelis and Palestinians could live side by side in peace, thereby bringing peace to the entire Middle East region, for years the indirect victim of that unjust conflict. International partners must be induced to reactivate the Road Map and assume their responsibilities. She asked the Special Rapporteur what he felt should be the next step towards a settlement of the conflict.

48. **Mr. Westmoreland** (Malaysia) commended the Special Rapporteur on his principled position in favour of human rights and a political solution that would allow Palestinians to exercise their right of self-determination free from human rights violations. He felt that the Special Rapporteur could be forgiven for appearing biased and having a political agenda and encouraged him to continue to discharge his mandate objectively until a just, lasting and comprehensive solution was found enabling Israel and Palestine to co-exist peacefully.

49. **Ms. Hastaie** (Islamic Republic of Iran) asked whether the Special Rapporteur had given any thought to seeking an expansion of his mandate to allow greater use to be made of his vast expertise and whether there was any possibility of his accompanying the High Commissioner for Human Rights on her forthcoming mission to the Middle East.

50. **Mr. Al-Moqhim** (Saudi Arabia) said that the Special Rapporteur's report had portrayed honestly the plight of the Palestinian people as a result of Israel's persistent policy of blockades and human rights violations. The Arab States had demonstrated their goodwill consistently at every level, as attested by many important initiatives, not least the Arab Peace Initiative, based on a Saudi initiative, adopted by the League of Arab States Summit in Beirut in March 2002. In view of the current situation, the international community needed to define "terrorism" and uphold peoples' defence of their rights. Given the obstacles and difficulties faced by the Palestinian people, he would like to know what the Special Rapporteur saw as the solution, in the light of the many international resolutions adopted in support of the Palestinian people's exercise of their rights.

51. **Mr. Alakhder** (Libyan Arab Jamahiriya) said that the Special Rapporteur's presentation had shown him to be the epitome of honesty, a virtue hard to find in the twenty-first century. His delegation wished to associate itself with the statements made by the representatives of the Sudan, Egypt and Lebanon.

52. **Ms. Abdelhak** (Algeria) said that the Special Rapporteur's report had painted a picture of flagrant human rights violations against the Palestinian people, as well as breaches of international humanitarian law, war crimes and crimes against humanity committed by Israel. There had been no follow-up to the strongly worded resolutions adopted by the Security Council in 2002 at its tenth emergency special session on illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory.

53. **Ms. Rasheed** (Observer for Palestine) said that the Israeli delegation's practice of attacking the work of United Nations officials should not be allowed to continue in the Third Committee. The representative of Israel must remember that the Special Rapporteur's mandate was restricted to the situation in the occupied Palestinian territories and that Israel was the occupying Power. The Israeli Government had inflicted untold suffering on the Palestinian people and if it objected to the Special Rapporteur's work, it should end its violations. Had Israel not been occupying Palestine, there would be no need for a Special Rapporteur.

54. **Mr. Dugard** (Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967), replying to the representative of Iran, said that he did not consider it helpful for his mandate to be expanded or for the same person to investigate violations by Israelis and Palestinians. Should a decision be taken to investigate violations by the Palestinian Authority, another special rapporteur would have to be appointed.

55. He hoped that the High Commissioner's forthcoming mission to the occupied territories would succeed where he had failed. He was not so deluded as

to think that his mission had been successful and he would not accompany the High Commissioner on her mission, lest it be tainted by his presence.

56. Regrettably, the dialogue in the Third Committee and in the Commission on Human Rights had been used over the years as an opportunity for "Israel-bashing". The dispute should not be seen as one between the Arab States and Cuba on the one hand and Israel on the other, often backed by the United States and the European Union. The situation in the Palestinian territories was a matter of concern to all Member States, which led him to wonder what the silent majority thought and whether they shared the views of the Arab States. The international community as a whole was concerned at the treatment meted out to the Palestinian people and the credibility of the entire human rights movement was at stake in Palestine. A similar situation in South Africa had long since been resolved, the Northern Ireland question appeared to be on course for a solution and it was to be hoped that the Israel-Palestine conflict would also be settled in the near future.

57. He could not endorse the rebuke levelled at the representative of Israel by the Observer for Palestine. Freedom of speech being the order of the day, he accepted any criticisms that that representative might wish to make. However, he felt that other delegations should participate more actively in the debate, with a view to finding a solution. As for what he saw as the solution, he was not an expert on international politics, his mandate being restricted to human rights. His criticism of the Quartet had stemmed from its failure to pay adequate attention to human rights concerns. He appealed to members of the international community, acting through the General Assembly, to bring pressure to bear on the Security Council to become more involved in the issue and to assume its responsibility for finding a solution.

58. **Mr. Cumberbatch** (Cuba) said that Cubans did not go in for Israel-bashing but that, because they had themselves suffered under conquest and occupation, they felt enormous solidarity with the Palestinian people, the same solidarity that they had shown when apartheid forces had invaded Angola and impeded the self-determination of Namibia. His Government's firmly held convictions had not changed since January 1959.

59. **Ms. Hastaie** (Islamic Republic of Iran) said that the Special Rapporteur had misinterpreted her question regarding a possible expansion of his mandate. She had merely wished to know whether the limitations of his mandate, to which he had referred, undermined his effectiveness and whether its expansion would afford him a better grasp of the international community's concerns.

60. **Mr. Dugard** (Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967) said that he was relieved to hear that clarification. What did place serious limitations on his mandate was the Israeli Government's refusal to cooperate with him. While he acknowledged that Israel had placed no obstacles in the way of his visits to the region, it had only itself to blame when it accused him of partiality and bias. He had never been able to speak to any Israeli Government officials, although he had addressed the Knesset and had communicated at length with Israeli non-governmental organizations. Conversely, he had been able to speak freely to both the Palestinian Authority and the Palestinian people. The problem was not his mandate, but his inability to speak to the authorities of one of the parties.

61. In conclusion, he commended the delegation of Cuba for regularly airing its misgivings even though, unlike the Arab States that frequently did so, it had no clear, demonstrable interest in the issue. He would like to see other States make a similar contribution to what was, in effect, a global threat to world peace. He urged the silent majority to impress upon their Governments the need to be more vocal in the debate on that issue.

*The meeting rose at 5.40 p.m.*

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## Third Committee

**Summary record of the 25th meeting**
Held at Headquarters, New York, on Friday, 20 October 2006, at 10 a.m.

*Chairman*: Mr. Al Bayati ..... (Iraq)

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Agenda item 67: Promotion and protection of human rights (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*)

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06-58087 (E)

*The meeting was called to order at 10.20 a.m.*

**Agenda item 67: Promotion and protection of human rights** (*continued*) (A/61/36, 97, 220 and 280)

**(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms** (*continued*) (A/61/211, 267, 281, 287, 289, 306, 311, 312, 324, 325, 338, 340, 348, 352, 353, 384, 464, 465, 476, 506 and 513)

**(c) Human rights situations and reports of special rapporteurs and representatives** (*continued*) (A/61/276, 349, 360, 369, 374, 469, 470, 475, 489, 504 and 526)

1. **Mr. Alston** (Special Rapporteur on extrajudicial, summary or arbitrary executions) said that the creation of the new Human Rights Council represented a major achievement, but it was only a first step. The emerging challenge was to re-establish the credibility of the United Nations itself to protect human rights effectively, consistently and fairly. The system of special procedures provided a tangible indication that Governments took seriously their commitment to accountability, and provided the Council with factual information, collected on the ground and often at significant risk, on issues and situations of major importance.

2. In his interim report on extrajudicial, summary and arbitrary executions (A/61/311) he pointed to one of the ways in which the system risked being undermined: 19 of the 22 States to which he had directed requests to visit had either failed to respond or had been unable to make any concrete arrangements. Yet eight of those 19 countries were members of the Human Rights Council and had specifically undertaken to uphold the highest standards in promotion and protection of human rights and to fully cooperate with the Council. The General Assembly should call on those States to uphold their commitments. He was deeply troubled that, a great deal of energy within the Council was being devoted to endeavours designed to change the rules of the game in such a way that the special procedures would be severely constrained.

3. The concept of "early warning" had received enormous attention and support in recent years. It was intended to make possible a response that would be prompt enough to prevent what would otherwise become an intractable crisis with an intolerable human toll. The practice, however, sometimes appeared to be one of alarm followed by silence followed by disaster.

4. The alarm was currently sounding for Sri Lanka. Sadly, there was a perception that Sri Lanka was not on the brink of a new crisis; that perception was inaccurate while real progress had been made over the past four years, and was still possible, the opportunity would not be available for much longer. The issue had been placed before the Human Rights Council for action. The first challenge was to acknowledge the need for significantly more sustained and high-level involvement in efforts to pressure the parties to move towards a peaceful resolution of the conflict. The second was to accept that there was no national institution capable of monitoring human rights throughout Sri Lanka. The third was to establish an effective international human rights monitoring presence, which could make a real contribution.

5. The discourse of human rights was central to the parties' own understanding of the origins of the conflict. Moreover a sustainable peace settlement would prove elusive until the parties demonstrated genuine respect for the human rights of all. The international community had a recognized and powerful role in what was a struggle for legitimacy, not for territory. Currently, the parties felt that they were able to violate human rights and humanitarian law without losing international legitimacy as long as they committed abuses in a manner that permitted them maximum deniability. Monitoring could foreclose that strategy and push the parties to show actual rather than simulated respect for human rights. In paragraph 67 of his report, he had recommended the establishment of a full-fledged international human rights monitoring mission in Sri Lanka.

6. Turning to Nigeria, he had urged the Government to commute the death sentence of all those who had spent more than five years on death row, on the grounds that the system of capital punishment had essentially broken down. He had been pleased to learn that about 20 per cent of the prisoners had had their sentences commuted; he called on the Government to take action on the other recommendations contained in paragraph 9 of his report.

7. Finally, with regard to lethal force, much of his report dealt with the understanding of the norms and standards which underpinned the prohibition of

extrajudicial executions and of their application in particular contexts. It devoted considerable attention to the legal framework within which consideration should be given to the use of lethal force by law enforcement officials.

8. **Mr. Kerr** (Australia) asked for explanation of the statement that the Human Rights Council was changing the rules of the game, and what actions the Committee and the General Assembly could take to prevent the Council from being discredited.

9. **Ms. Kalamäki** (Finland), speaking on behalf of the European Union, asked what steps the General Assembly could take to deal with the lack of response — especially from members of the Human Rights Council — to the Special Rapporteur's requests.

10. With regard to Sri Lanka, she asked the Special Rapporteur to elaborate on the principles that should guide a national commission of inquiry if one were to be set up, on the continued relevance of the other recommendations contained in his report and on any plans for follow-up. To achieve a lasting settlement of the conflict, it was important for the legitimate interests and aspirations of all communities to be considered. There appeared to be increasing concern among Muslims that the new agreement between Government and the opposition was to their disadvantage. She asked how a holistic approach to the peace process could address those concerns.

11. On Nigeria, she asked whether there had been any further contact with the Government concerning implementation of the recommendations in the report. She also requested the Special Rapporteur to elaborate on the allegations of extrajudicial killings during the armed conflict in Lebanon.

12. **Mr. Alston** (Special Rapporteur on extrajudicial, summary or arbitrary executions), replying to the representative of Australia, said that the special procedures system had begun 25 years earlier to counter the perception that the United Nations was ignoring specific human rights violations. The only proposals currently being pushed by the Human Rights Council seemed designed to constrain that system. The States that were the system's strongest supporters seemed unwilling to take the strong countermeasures needed to ensure the integrity of the system.

13. Turning to the questions raised by the representative of Finland, he said that there were legitimate reasons why a Government might not issue an invitation to a Special Rapporteur, yet most of the Governments concerned had simply refused to cooperate with the Human Rights Council. The General Assembly could address the situation by calling on Council members to meet their obligations.

14. A national commission of enquiry could find an excellent model in the one established in Nigeria to handle the "Apo 6" inquiry. Its final report had been published and the Government had quickly taken up its recommendations. The Muslim community in Sri Lanka had not been involved in the peace negotiations, but their participation was indispensable.

15. With regard to Nigeria, in his recent contacts he had reaffirmed his recommendation that stoning should be prohibited as punishment for adultery and homosexuality, but there had been no further response from the Government.

16. His report made clear that both international human rights and humanitarian law were applicable to the situation in Lebanon and Israel. Four special rapporteurs had produced a joint report that indicated the links between both bodies of law in that situation. A strong case could also be made that war crimes had been committed both by Hizbollah and by Israel.

17. **Mr. Pinheiro** (Special Rapporteur on the situation of human rights in Myanmar), introducing his report (A/61/369) said that he had not been permitted to conduct a fact-finding mission to Myanmar since November 2003, but had continued to fulfil his mandate to the best of his ability based on information collected from a variety of independent and reliable sources. The Government of Myanmar had recently replied to a number of official communications, which he considered a positive indication of its will to cooperate with the Human Rights Council.

18. In the past two years, the reform process proposed in the seven-point road map for national reconciliation and democratic transition had been strictly limited and delineated. The work of the National Convention had been adversely affected, but he acknowledged with satisfaction the recent resumption of its work.

19. The persecution of members of opposition political parties and human rights defenders showed that the road map for democracy faced too many obstacles to bring about genuine transition, however.

The house arrest of Daw Aung Sang Suu Kyi had been prolonged in spite of international appeals, including by the Secretary-General. At the end of August 2006, there were an estimated 1,185 political prisoners in custody, and he had also recently learned of the deaths of democracy advocates and human rights defenders. It was deplorable that the International Committee of the Red Cross (ICRC) had been unable to visit all places of detention, and he renewed his appeal to the Myanmar authorities to allow ICRC to conduct its activities in accordance with its rules and principles.

20. The capacity of law enforcement institutions and the independence and impartiality of the judiciary had been hampered by sustained practices of impunity, and the continued misuse of the legal system affected the exercise of fundamental freedoms. To be credible, the implementation of the road map should be based on access to basic freedoms by all citizens, but in the past three years, those freedoms had been curtailed rather than expanded. It was a matter of grave concern that the exercise of fundamental freedoms had been criminalized.

21. However, he welcomed progress in the area of forced labour. Three cases filed against people arrested for lodging complaints against forced labour practices had been resolved by the Government in collaboration with the International Labour Organization (ILO). He also welcomed the six-month moratorium declared on that type of prosecution.

22. He was very concerned by the ongoing military campaign in ethnic areas of eastern Myanmar and its effects on human rights, especially on the civilians targeted during the attacks. Numerous cases of forced eviction, relocation and resettlement, internal displacement and forced migration had been reported. As the Government would not allow him access he could not verify the reports, but would welcome any clarification from the Government of Myanmar.

23. According to numerous reports, there had been marked signs of deterioration in the economic and social sectors that could aggravate the humanitarian situation. Although the economy was expected to grow, largely due to rising revenues from offshore gas fields, the people would continue to face serious hardship. Humanitarian assistance could not be held hostage by politics, and must be guided solely by the best interests of the people. He joined the Special Rapporteur on the right to health in deploring the decision of the Global Fund to Fight AIDS, Tuberculosis and Malaria to suspend its programme in the country, but welcomed the launching of the Three-Disease Fund, which would provide roughly equivalent funding.

24. He noted that the Security Council had added Myanmar to its agenda, and urged coordination among Member States in their contributions to its political transition towards democracy. Joint initiatives on issues of common concern, such as the environment, economic growth and development, education, medicine and engineering and technology could facilitate progress and should be explored.

25. **Mr. Mra** (Myanmar), welcomed the changes the Special Rapporteur had made in his oral report, noting that the written report contained many inaccuracies. Given its tone and tenor, the report must have emanated from anti-government sources. Indeed, the reports of the Special Rapporteur had ceased to be objective and constructive, and had given way to unfounded allegations against the National Convention process.

26. The National Convention continued to pursue the "seven-point road map for national reconciliation and democratic transition", and had completed three quarters of its work. The National Convention's composition was all-inclusive, contrary to allegations. The alleged ongoing military campaign in eastern Myanmar and the claims relating to the humanitarian situation, forced evictions and displacement of ethnic minority villages were totally unfounded. He stressed that Myanmar was not a country in armed conflict; the return of 17 major armed groups to the legal fold had led to the establishment of peace and stability in the country. Counter-insurgency campaigns were restricted to a few localities and conducted only against those insurgents engaged in acts of terrorism. Insurgents had fled across the border.

27. The claim that ethnic groups were subjected to harassment and persecution was completely unfounded. In fact, it was the Government's policy to promote unity among such groups. Every effort was made to promote and protect people's human rights. The claim in the report that rates of HIV/AIDS and tuberculosis infection were among the highest in Asia was also incorrect. The country had won recognition and approval for its successful endeavour to suppress the outbreak of H5N1 avian influenza.

28. While rejecting the many unfounded allegations and unrealistic recommendations of the Special Rapporteur's intrusive and highly politicized report, his country remained committed to continued cooperation with the United Nations in its efforts to promote human rights guided by principles of impartiality, objectivity, non-selectivity and non-politicization.

29. **Ms. Laurenson** (New Zealand) expressed concern at a number of areas of the Special Rapporteur's report, and supported his calls for the release of all political prisoners, the provision of adequate health care to prisoners and the lifting of constraints on political actors. She supported his appeal for the provision of humanitarian assistance, in particular that the International Committee of the Red Cross be authorized to continue to carry out its work. She asked what the Committee and Human Rights Council could do to support efforts to foster a debate on political transition, in particular to support the effective participation in that debate of all political actors and ethnic groups.

30. **Ms. Kalamäki** (Finland), speaking on behalf of the European Union, stressed the importance of full, unconditional cooperation between States and the special procedures system. The European Union urged the Government to cease its harassment of politicians and human rights defenders, to lift restrictions on freedom of speech and assembly and to accelerate the democratization process. Given the extremely difficult socio-economic conditions experienced by many sectors of the population, she asked the Special Rapporteur whether he foresaw a humanitarian crisis in the country, and whether the launching of the Three-Disease Fund had provided for relief in the health situation. The European Union would like to know if there were any indications that the Government was to increase democracy and inclusiveness in the resumed work of the National Convention, and would welcome updated information on the situation concerning the counter-insurgency military operations targeting civilians in Northern Karen.

31. **Ms. Blitt** (Canada) expressed concern at the continued deterioration of the situation described by the Rapporteur, in particular the lack of respect for human rights and fundamental freedoms. She asked what specific action the international community could take to assist in the promotion of human rights and democratic development in Burma. Canada had recently accepted 800 Karen refugees for resettlement in Canada, while Burma had made little progress towards implementing a genuinely inclusive process for national reconciliation. She asked how the Government could be encouraged to engage with ethnic minorities in an authentic national reconciliation process.

32. **Mr. Mra** (Myanmar), speaking on a point of order, requested that his country's proper name be used when discussing the human rights situation in Myanmar.

33. **Ms. Otani** (Japan) asked the Special Rapporteur what he expected from the planned second visit to Myanmar by Mr. Gambari, Under-Secretary-General in terms of improvement of the human rights situation on the ground. She would welcome his views regarding the mandates — particularly the country mandates — of the special procedures, which were under ongoing review by the Human Rights Council.

34. **Ms. Zhang** Dan (China) commended the Government on its efforts to promote and protect human rights. The Government had promoted international cooperation in a spirit of openness and frankness, and the international community should use dialogue and communication, rather than confrontation and political pressure. Greater understanding and tolerance were required in order to resolve divergences in the area of human rights.

35. **Mr. Vohidov** (Uzbekistan) noted that the sources of information in the report were very limited, as the Special Rapporteur had chosen not to include any information from the Government. Supposedly because he had been unable to visit the country since 2003. In the view of his delegation, the reason the Special Rapporteur had not been invited was that States no longer trusted the United Nations human rights mechanisms. The overall tone of the report was accusatory, critical and one-sided. It was necessary to cooperate with the Myanmar authorities.

36. **Mr. Pinheiro** (Special Rapporteur on the situation of human rights in Myanmar), in reply to the representative of New Zealand, said that he would welcome greater follow-up by the Committee to the recommendations of the Special Rapporteur. In reply to the representative of Finland, he said that he expected the deterioration of the humanitarian situation in Myanmar owing to the withdrawal of the Global Fund to Fight AIDS, Tuberculosis and Malaria to be curtailed by the implementation of the Three-Disease

Fund. He was unable to say whether the situation would deteriorate further, without carrying out more sophisticated assessment and that was impossible without full access to the country by United Nations agencies. In his view, the work of the National Convention was not inclusive, as was shown by the fact that none of the proposals by the military groups involved had been taken on board in the Convention's work. Updated information on the situation in Northern Karen was needed, and it was unfair simply to state that the allegations in his report were inaccurate. Had he been allowed access to the country he could have provided a more comprehensive report.

37. In reply to the representative of Canada regarding specific action to be taken by the international community to promote democracy, he said it was important to continue all efforts at diplomacy, dialogue and cooperation in Myanmar, and to try to convince the Government of the advantages of an inclusive process. That was not an impossible task, as could be shown by the successful examples of political transition in Asia.

38. In reply to the representative of China, he stressed that his work of diplomacy had never involved confrontation and political pressure. In reply to the representative of Japan, he welcomed the forthcoming visit by the Under-Secretary-General; all visits to the country, including by special rapporteurs and United Nations agencies, constituted positive steps. In his view, the special procedures were one of the jewels in the crown of the former Commission on Human Rights, and the work of the Special Rapporteurs must continue. He urged Member States not to renounce the country Special Rapporteurs, as that would mean renouncing an important tool for international cooperation.

39. In reply to the representative of Uzbekistan he described the extensive work carried out as part of his mandate and said that he had not ignored information from the Government; rather, the Government had not shared information with him. He had seen no evidence of Member States having lost confidence in the special procedures. If that had been the case, the mandates of the Special Rapporteurs would surely not have been extended. The point of a report was to criticize, but in the context of dialogue with the Member State in question. He would welcome that dialogue, and would cooperate fully with Myanmar if allowed into the country.

40. **Mr. Muntarbhorn** (Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea), introducing his report (A/61/349), called on the authorities of the Democratic People's Republic of Korea to become more accountable, and asked the whole of the United Nations system to take appropriate and effective measures in that regard.

41. Concerning the right to food and to life he said that the country had faced severe food shortages since the mid-1990s and in recent years had had to rely on donations of food and other humanitarian aid. In 2005 the authorities had indicated that they no longer wished to accept food aid from outside the country and many non-governmental organizations had been asked to leave the country. Nevertheless, in early 2006 WFP had sought approval for its protracted relief and recovery operation to assist vulnerable groups, particularly women and children. The situation had worsened in 2006 following the missile tests and reported nuclear test, which had caused various contributors to stop providing humanitarian aid. Some donors had resumed providing humanitarian aid following the devastating floods of July and August 2006. However, WFP reported that its food stock would last only until the end of 2006 and that only a small percentage of the budget requested from potential contributors was being met.

42. Regarding the right to security of the person, humane treatment, non-discrimination and access to justice, he said that, as noted in paragraphs 14 and 15 of the report, there continued to be many reports of transgressions in those areas. The judicial system lacked independence and was heavily influenced by the regime in power. The ordinary courts were opaque in nature, added to which was the parallel functioning of a quasi-penal regime of "people's courts" and "people's trials". The regime did not comply with guarantees on the rule of law that should ensure judicial independence, natural justice, respect for the rights of the accused and access to lawyers. The treatment of prisoners gave rise to continuing concern, given the reports of torture as well as inhuman and degrading treatment (para. 16). The abduction of foreigners by agents of the Democratic People's Republic of Korea had affected several countries. A number of cases involving Japanese nationals had yet to be resolved.

43. The issue of freedom of movement, asylum and refugee protection — another key human rights

issue — was dealt with in detail in paragraphs 20, 21 and 22 of the report. As regards the right to self-determination and to political participation as well as to freedom of expression, belief and opinion, as stated in paragraph 29 there had been no ostensible improvement in that regard. The media were State-controlled and it was illegal to listen to foreign radio and television or to own computers without official permission. While it was officially claimed that there was freedom of religion, the reality suggested otherwise. Women's rights, child rights, the rights of older persons and the rights of those with disabilities were also areas that required more specific attention. During the preceding year, he had contacted the authorities to seek leniency for those who had sought asylum in other countries and been returned and to advocate for improved treatment of prisoners. The Democratic People's Republic of Korea had been uncooperative in its responses.

44. Finally, he expressed concern regarding the human rights situation in the Democratic People's Republic of Korea and recommended that the authorities take the measures outlined in paragraph 61 of the report. The international community should also provide support with regard to the recommendations.

45. **Mr. Sin** Song Chol (Democratic People's Republic of Korea) reiterated the principled position that his Government did not and would never accept the mandate of the Special Rapporteur, because resolutions directed against the Democratic People's Republic of Korea were political documents that served United States policy and had nothing to do with genuine human rights. It was therefore not even necessary to argue on the contents of the report. The human rights issue had deviated from its initial lofty purpose and was now sacrificed to the power and arbitrariness of countries that sought to politicize the issue in the interest of their hypocritical objectives. The people of the Democratic People's Republic of Korea would never change their faith in the socialist system. He urged the Special Rapporteur to grasp the background of the resolutions in question and to behave with discretion accordingly.

46. **Mr. Shin** Dong-ik (Republic of Korea) said that his delegation supported the Special Rapporteur's approach and recommendations as constructive and balanced. The Democratic People's Republic of Korea should heed the voices of the international community and the recommendations of the Special Rapporteur and make a sincere effort to improve human rights standards for its citizens.

47. **Mr. Shinyo** (Japan) said that he appreciated the Special Rapporteur's vigorous efforts to improve human rights in the Democratic People's Republic of Korea. The latter should allow the Special Rapporteur to visit the country without delay and should implement General Assembly resolution 60/173 and Security Council resolution 1718 (2006), which underlined "the importance that the DPRK respond to other security and humanitarian concerns of the international community". The international community must work in concert on human rights issues in the Democratic People's Republic of Korea, including the abduction issue, which affected not only Japan but also South Korea and Thailand. He asked the Special Rapporteur what was the most useful thing that the international community could do to improve the human rights situation in the Democratic People's Republic of Korea.

48. **Ms. Leikas** (Finland), speaking on behalf of the European Union, asked the Special Rapporteur to elaborate on what could be done to improve the judicial system in the Democratic People's Republic of Korea as well as on any possibilities for international assistance. She wondered what measures had been taken on freedom of expression and asked what the role of the international community was on that issue. Finally, she asked how the rights of women and children could be promoted.

49. **Mr. Ceinos-Cox** (United States of America) said that the mandates given to Special Rapporteurs by the international community were a means to establish dialogue and cooperation with the parties to which they were assigned. He asked how dialogue and cooperation with Member States could be improved, and what other mechanisms could be used when delegations, as in the case at hand, ignored the existing mechanisms.

50. **Ms. Laurenson** (New Zealand) welcomed the special attention given to persons with disabilities and said that her delegation was deeply concerned by the need for food and other assistance from outside the Democratic People's Republic of Korea. Regarding the Special Rapporteur's suggestion concerning a rights-based approach, she wondered how such an approach could be incorporated into the programme in process.

51. **Mr. Binette** (Canada) urged the Democratic People's Republic of Korea to cooperate fully with the

Special Rapporteur. His delegation had been especially disturbed to hear about the maltreatment of repatriated defectors, the regular use of public executions to intimidate the population and reports that women prisoners were forced to undergo abortions. He asked whether there was any truth to the reports that some food aid was not being properly distributed and whether there were specific groups in the country that were particularly affected by the food shortage.

52. **Mr. Muntarbhorn** (Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea) responding to the representative of Japan said that there were actions that could improve the human rights situation. There was still a need for humanitarian and food aid but monitoring was necessary to ensure that it reached the right groups. Security Council resolution 1718 (2006) opened the door to aid, but the nuclear test had impeded the will of some donor countries to provide that aid. In the matter of asylum and refugees, he said that while international burden-sharing could help the countries of first asylum it was also necessary to deal with the causes that prompted people to seek asylum. With some political will, he believed that reform of the prison system should be possible. It was also necessary to understand the need for security on the Korean peninsula. Above all, the entire United Nations system must be engaged in a holistic way to uphold democracy, peace, human rights, security and sustainable development.

53. In response to the question from the representative of Finland about strengthening the judiciary, he said that guidance already existed in the form of the International Covenant on Civil and Political Rights, to which the Democratic People's Republic of Korea was a party. What was lacking was a degree of political will. The same applied to the issue of freedom of information. He had emphasized that people should not be punished for dissidence and that the system should be liberalized so that all people would have access to information. De facto discrimination pervaded the system. Above all, it was imperative to improve food security, to remove discrimination against refugees and to ensure that people were able to exercise their civil and political rights.

54. Responding to the representative of the United States, he noted that there were also special rapporteurs on women's issues and on torture. He also pointed out that the Democratic People's Republic of Korea was a party to four of the core international human rights treaties, each of which had its own treaty body. Those bodies should be more involved and, indeed, all United Nations bodies, including the General Assembly and the Security Council, should be involved.

55. In response to the question from New Zealand, he said that a rights-based approach to humanitarian assistance would be a policy of "no access — no food". In other words, assistance must be accessible to target groups, otherwise no food would be provided.

56. Finally, answering the question put by the representative of Canada, he said that there were a variety of views on the subject. Some people believed that little or no food aid was being diverted. However, the only way to be sure that the aid was properly distributed, was by monitoring the distribution.

*The meeting rose at 12.20 p.m.*

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## Third Committee

**Summary record of the 26th meeting**
Held at Headquarters, New York, on Friday, 20 October 2006, at 3 p.m.

*Chairman*: Mr. Al Bayati ..... (Iraq)

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Agenda item 67: Promotion and protection of human rights (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*)

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06-58093 (E)

*The meeting was called to order at 3.10 p.m.*

**Agenda item 67: Promotion and protection of human rights** (*continued*) (A/61/36, 97, 220 and 280)

**(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms** (*continued*) (A/61/211, 267, 281, 287, 289, 306, 311, 312, 324, 325, 338, 340, 348, 352, 353, 384, 464, 465, 476, 506 and 513)

**(c) Human rights situations and reports of special rapporteurs and representatives** (*continued*) (A/61/276, 349, 360, 369 and Corr.1, 374, 469, 470, 475, 489, 504 and 526)

1. **Ms. Samar** (Special Rapporteur on the situation of human rights in the Sudan), introducing her report (A/61/469), said that it covered the two missions she had conducted to the Sudan in 2006. She said that, in spite of the signing of the Comprehensive Peace Agreement, the adoption of the Interim National Constitution and the Interim Constitution of Southern Sudan in 2005, and while the Sudanese had a great desire for democratic transition, there had been significant delays in the implementation of the Agreement. Furthermore, violations of the Constitution and international human-rights law had led to growing disappointment and a lack of confidence in the willingness of the parties involved in the conflict for real change. Discrimination and marginalization of certain groups continued and basic rights such as access to food, shelter, health and education were not guaranteed.

2. There had also been serious delays in the harmonization of legislation with the Interim National Constitution, which recognized international human-rights standards, and the Interim Constitution for Southern Sudan. Law reform was required without delay, through consultation with a broad spectrum of society, to ensure that the reforms would respond to the needs of victims and society in general.

3. The situation in Darfur had sharply deteriorated despite the signing of the Darfur Peace Agreement. The Government, allied militia and rebel groups continued to commit serious violations of international human rights and humanitarian law, and Darfur-based militia were attacking civilians across the border in Chad and the Central African Republic.

4. The Government of the Sudan had failed to comply with its human-rights obligations under international law and had not implemented United Nations recommendations.

5. Thousands of Sudanese troops had been deployed to Darfur in clear violation of the ceasefire agreements, the Darfur Peace Agreement and Security Council resolution 1591 (2005). Thousands of persons had been displaced and had found little safety in the refugee camps, owing to the presence of militia and armed groups.

6. In southern Sudan, the human-rights situation remained fragile, in particular with regard to the enjoyment of social and economic rights. The lack of human and financial resources in that region affected the right to education, health, housing and development and the establishment of the rule of law. Returnees and internally displaced persons faced enormous difficulties, and outside towns, insecurity continued owing to the presence of armed groups.

7. On 14 October, the Government and the Eastern Front had signed an agreement in Asmara, Eritrea, which she hoped would lead to a just resolution of the conflict in eastern Sudan.

8. The right to life continued to be violated in Darfur, and many parts of the region were inaccessible to humanitarian-relief workers, leaving communities without vital food and health relief. Rape and sexual violence against women continued, and perpetrators were seldom brought to justice.

9. Justice and reconciliation were key to a sustainable peace; and ending impunity and ensuring accountability should be of the utmost importance. She called on the Government of the Sudan to fully cooperate with the International Criminal Court, to which the Security Council had referred the situation in Darfur, and to ensure that those responsible for international crimes were brought to justice.

10. There had been a noticeable crack-down on human-rights defenders, lawyers, journalists and members of political opposition parties in the reporting period; the space for freedom of expression, association and assembly was closing.

11. Internally displaced persons living in camps and informal settlements were prime targets for police abuse, including extortion. She was also concerned about the forced relocations conducted, such as for Soba in May 2005 and Dar Assalam in August 2006, in violation of international standards.

12. Immediate priority should be given to effective human-rights protection and humanitarian assistance to vulnerable populations in Darfur, without overlooking the situation in southern and eastern Sudan and other parts of the country. She reviewed a number of recommendations contained in her report.

13. **Mr. Abdalhaleem** (Sudan) said that the three visits made to the Sudan by the Special Rapporteur were clear evidence of the Sudan's readiness to cooperate with international human-rights agencies. The many international human-rights instruments to which the Sudan was signatory had been listed in the report (A/61/469). But the assertions in the report about the slow pace of implementation of the Comprehensive Peace Agreement were inaccurate. The Special Rapporteur had had ample opportunity to visit various parts of the country and observe the great strides that had been made since the signing of the Agreement towards its implementation. It would have been more appropriate for her to focus on urging the international community to fulfil the commitments made at the Oslo donors' conference in order to ensure continued progress in reconstruction, human rights and the resolution of outstanding issues.

14. The determination of the Sudan and its people to overcome the ravages of decades of war had been further illustrated by the Darfur Peace Agreement and the establishment of a number of mechanisms to implement it, including reconciliation and compensation measures, facilitation of international humanitarian efforts, and the submission of a working plan to the African Union for disarming the militias. There were also ongoing efforts, which the international community should support, to pressure armed groups that had not yet signed that Agreement to do so.

15. The Sudanese judicial authority, noted for its independence, was investigating serious crimes and violations of international humanitarian law in Darfur, and had established several special tribunals which regarded no one as above the law and had already convicted some uniformed soldiers and Government officials. The Office of the High Commissioner for Human Rights had sent a letter welcoming steps taken by the Sudan to bring such violators to justice. To combat violence against women in Darfur, an action plan had been launched that included the dispatch of female police officers and a unit to combat violence against women.

16. What the report had to say about eastern Sudan was old history which the people who lived there had already put behind them. In June 2006 the Government and the Eastern Front had signed an agreement in Eritrea that arranged for power and revenue sharing. He was pleased to announce that the Government of the Sudan had ended the state of emergency in eastern Sudan as of the previous day. Furthermore, the Special Rapporteur's characterization of the suffering caused to residents by the construction of the Merowe Dam (ibid., para. 37) had been greatly exaggerated. In fact, an agreement on land compensation satisfactory to all had been reached, and the people of the Sudan looked forward to the agricultural and energy benefits that the dam would begin to provide when it opened in 2008.

17. Great strides had also been made in harmonizing national laws with the Interim National Constitution. Both the National Constitutional Review Commission and the legislative authority had begun to review laws for amendment. The new Organization of Humanitarian and Voluntary Work Act had recently been signed into law.

18. All those efforts were being made with the goal of ensuring that human rights were constitutionally protected for all citizens. The international community should fulfil its assistance commitments, cancel the Sudan's debts, and provide funds for reconstruction and development projects. The Government reaffirmed its readiness to cooperate on human rights and its commitment to implementing the peace agreements, that being the only way to ensure that peace and security would prevail throughout the Sudan.

19. **Mr. Al-Sada** (Yemen) said that, while the human-rights situation in the Sudan was clearly a matter of concern, it was equally clear that the Government was willing to resolve the situation through consultation and dialogue. The Sudanese factions should be given an opportunity to find a solution internally, and to convince the factions that had not acceded to the Darfur Peace Agreement to do so, albeit with the cooperation of the international community, so as to

enable the Sudanese people to reach a sustainable peace.

20. **Mr. Attiya** (Egypt) said that the report of the Special Rapporteur seemed to contain political nuances better dealt with in other committees, and language that closely reflected that from other reports, such as to the Security Council. Furthermore, he wondered why a report had been prepared for the current session of the General Assembly when, under her mandate, she was requested to report on the matter at the sixty-second session.

21. **Ms. Kohli** (Switzerland) said that her delegation was highly concerned about the continuing deterioration of the human-rights situation in Darfur. The repeated violations of international humanitarian law and human-rights law seriously compromised the consolidation of peace in the Sudan. In that regard, she called for all parties involved in the conflict to respect their obligations under international humanitarian and human-rights law and to do their utmost to protect the civilian population and guarantee the safety of humanitarian workers.

22. She wondered whether the Special Rapporteur could point out the main political, economic and logistical factors that might impede implementation of the recommendations made to the warring parties, and what role the international community could play to that end.

23. **Ms. Hastaie** (Islamic Republic of Iran) said that the positive response of the Government of the Sudan to the Special Rapporteur's visits illustrated its eagerness to continue the ongoing dialogue to help resolve the conflict. The Special Rapporteur had mentioned the human-rights violations perpetrated by the rebel groups, but she wondered whether human-rights violations had also been perpetrated by other parties, which would add to the complexity of the conflict, and whether she had recommendations to make to those parties.

24. **Mr. Guo** Jiakun (China) said that he welcomed the level of cooperation that the Government of the Sudan had demonstrated with regard to the Special Rapporteur and the sincerity of its efforts to cooperate with the international community in addressing the human-rights situation in the Sudan. China hoped that the situation in Darfur would be resolved as soon as possible, and that the dialogue for a lasting peace would continue.

25. **Ms. Rainne** (Finland), speaking on behalf of the European Union, said that she strongly supported the mandate of the Special Rapporteur and welcomed the cooperation that had been established with the Sudanese authorities during her country visits. In the light of reports that violence against women and children — including sexual and gender-based violence committed by warring groups in the region — was reaching alarming levels, she wished to know what priority measures the Special Rapporteur would recommend that the Member States, and the Government of the Sudan in particular, should take to end that scourge and the culture of impunity in the Sudan.

26. She also wished to know whether the Government of the Sudan had taken up measures to address the deteriorating situation on matters relating to the freedom of expression and of the press.

27. **Ms. Halabi** (Syrian Arab Republic) said that her delegation welcomed the efforts of the Government of the Sudan to implement the Comprehensive Peace Agreement through cooperation with the international community, and the progress it had made in such a short period of time. The fact that rebel groups had stepped up acts of violence to impede the peace process should be seriously addressed through means other than pointing fingers at the Government of the Sudan, which was trying to protect its national security and territorial integrity against such aggression. She wondered whether the Special Rapporteur could comment on that, stressing that the media tended to exaggerate when reporting on the human-rights situation in the Sudan.

28. **Mr. Cumberbatch Miguén** (Cuba) said that, in looking into the root causes of the conflict in the Sudan, there seemed to be a clear intention to divide the country into various parts. He hoped that the questions being raised about the recommendations of the Special Rapporteur would not be construed to mean there was a need for external intervention; instead, he called for increased dialogue among the parties involved. He wished to know from the Special Rapporteur which parties had been resisting the conclusion of an agreement for a lasting resolution to the conflict.

29. **Ms. Abubaker** (Libyan Arab Jamahiriya) said that the report illustrated the commitment of the Government of the Sudan to fulfilling its obligations

under the relevant international human-rights instruments and its willingness to cooperate, as evident from the various peace agreements it had signed, including for southern Sudan. In that regard, there was no need for external intervention. Reconstruction would take time, and in that regard, Arab countries and the entire world should lend its support to the Sudan to help in its reconstruction, development and security efforts.

30. **Mr. Al-Muqhim** (Saudi Arabia) said that the statement made by the representative of the Sudan was an indication of the willingness of the Sudanese Government to cooperate with the international community and honour its obligations to improve the human rights situation in the country. Nevertheless, that would require time, especially as the Sudan was going through a difficult period. The international community must therefore give the Government of the Sudan the necessary support for its efforts to improve the situation.

31. **Mr. Jean** (Canada) said that his Government shared many of the concerns voiced by the Special Rapporteur regarding the human rights situation throughout the Sudan and the need for full implementation of the three peace agreements. Canada was particularly concerned by the ongoing sexual and gender-based violence, which had intensified in recent months, particularly in Darfur. The limited efforts of the Sudanese Government, involving the establishment of state committees, specialized police units and an action plan to address the violence in Darfur, had been largely ineffective. He would therefore like information on the role which might be played by the Office of the High Commissioner for Human Rights (OHCHR) and the international community in making such initiatives more effective.

32. **Mr. Al Saif** (Kuwait), commending the efforts made by the Special Rapporteur to finalize her report, paid tribute to the transparency shown by the Government of the Sudan, which had permitted the Special Rapporteur to visit the country on three occasions. More effective action was needed to improve the situation, particularly in Darfur, but obstacles were preventing the Sudanese Government from achieving peace throughout the country. His delegation condemned all forms of violence and human rights violations in Darfur and called for the full implementation of all the peace initiatives in the Sudan. He drew attention to a League of Arab States resolution in support of the African Union Mission in the Sudan (AMIS). Lastly, his delegation welcomed the signing in October 2006 of the Eastern Sudan peace agreement, which it hoped would form the basis for the restoration of peace in the Sudan.

33. **Ms. Abdelhak** (Algeria), welcoming the Special Rapporteur's report, commended the spirit of cooperation which the Sudanese Government had shown to facilitate her mission. The tragic humanitarian situation was closely linked with three interrelated factors: peace and security, development, and human rights. The conflict which had been ravaging the Sudan for some time and the obstacles to development were exacerbating the situation. The international community should focus on the causes and assist the Sudanese Government in implementing the peace agreements. It must also exert its influence on the militias which had not signed those agreements.

34. The Special Rapporteur had stated that the Darfur Peace Agreement had not brought about peace, but perhaps it was premature to make that judgement at such an early date.

35. **Ms. Samar** (Special Rapporteur on the situation of human rights in the Sudan), replying to questions, reiterated her appreciation to the Sudanese Government for its cooperation and openness during her three visits. Owing to time constraints, she had not mentioned all the positive steps taken by the Sudanese Government, which were reflected in the report. In her statement, she had only had time to address the urgent human rights issues.

36. Concerning the comment made by the delegation of the Sudan about the judiciary, she said that, while it might be functional in Khartoum, in Darfur she had found only two prosecutors for more than 1 million persons. She had been told that they did not have sufficient human and financial resources to tackle the issues of justice throughout the region. Furthermore, prosecutors were unwilling to go to the region, because of the dire situation there. It had recently been announced, however, that there would be eight prosecutors.

37. Regarding sexual and gender-based violence, there were indeed three State committees and an action plan for the elimination of violence against women. In Western Darfur, however, they were not functional. Elsewhere, they suffered from a lack of staff and

resources; very few perpetrators of gender-based violence had ever been brought to justice.

38. With respect to the question raised by Cuba, those who might not wish to bring peace to the Sudan included various actors within the Sudanese Government. The Comprehensive Peace Agreement had succeeded in stopping the fighting between the south and the north. More steps needed to be taken, however. There were delays in implementation of the timetables established under the Agreement. Concerning the Darfur Peace Agreement, while relatively little time had elapsed since its signing in May 2006, it should have helped to improve the security situation; that situation, however, had grown worse since that date. Fighting continued between the Sudanese Government and the rebels, with civilians caught in between.

39. Concerning her mandate, like those of the other special rapporteurs it had been extended by the new Human Rights Council. That was why she was presenting her report at the current meeting. She was not politically motivated, as her Government had no interests in the Sudan. Her own interest lay in carrying out the mandate entrusted to her.

40. She had insisted on the need for support from the international community. Darfur had a strong need for technical and financial support for the implementation of the Comprehensive Peace Agreement. The international community should therefore support the Government and people of the Sudan in addressing their security and human rights problems. More financial and logistical support should be given to the African Union to enable it to provide more protection. Sexual and gender-based violence in Darfur had arisen because the African Union had been unable to fully meet its responsibilities. Furthermore, the Sudanese must do more to end the prevailing culture of impunity.

41. **Mr. Attiya** (Egypt) said that he must have been misunderstood. He was aware that the Special Rapporteur was an independent expert working in the field. He was not calling into question her expertise or capabilities. He wished to say that the report should have been presented in 2005. Everyone was seeking ways to implement the Security Council resolution. Presenting the report at the current time was a means of exerting pressure on the Sudanese Government, but there was wide consensus on the need for quiet diplomacy.

42. The report before the Committee might have been filtered more beforehand to eliminate many of its political aspects, including political forecasts. He drew attention to paragraph 83 of the report, which stated that all the signs suggested that there would be an escalation of violence in the coming months. He doubted whether any political figure would make such a prediction and deplored seeing it in a United Nations report.

43. **Mr. Ceinos-Cox** (United States of America) said he would welcome hearing the views of the Special Rapporteur on the takeover by the United Nations Mission in the Sudan (UNMIS) of responsibility from the African Union Mission in Sudan (AMIS) for implementation of the Darfur Peace Agreement upon the expiration of the AMIS mandate.

44. He would also like to know how many of her recommendations had been implemented in a way which would have an impact on the ground.

45. **Ms. Samar** (Special Rapporteur on the situation of human rights in the Sudan), reviewing her mandate, recalled that she had been appointed in September 2005. She had made a statement on 27 October 2005 before the Committee; she had had no time beforehand to write a report. She had paid only a short visit to the Sudan a week before that meeting. She had submitted her report to the Commission on Human Rights, prior to that body's transition to the Human Rights Council. The Council had decided to extend the mandate of all the special rapporteurs. She had been required to submit her report during the current session.

46. **Mr. Abdalhaleem** (Sudan) said that one lesson which had emerged from the current discussion was the importance of dialogue and cooperation. His Government was determined to strengthen dialogue and cooperation with the international community. It would continue to pursue implementation of the three peace agreements. His Government was committed to the welfare and security of the Sudanese people.

47. **Mr. Pacéré** (Independent Expert on the situation of human rights in the Democratic Republic of the Congo), introducing his report (A/61/475), said that, while the end of 2005 and first quarter of 2006 had been dominated by the run-up to the presidential and legislative elections, there had also been frequent gross violations of human rights. The first round of elections, in July 2006, would remain a milestone in the history

of the Republic. Nevertheless, the announcement of the results had provoked bloody disturbances.

48. The humanitarian situation was a matter of serious concern. Various threats of violence had caused the forced displacement of people and created war refugees. Lack of security had prevailed throughout all regions of the country since the start of 2006. The head of the National Human Rights Observatory had narrowly escaped an armed attack at his home in June 2006. A large number of cases of sexual violence and torture had been reported by the OHCHR field office in March 2006 (ibid., para. 95). The prevalence of such crimes was exacerbated by continuing impunity, and immediate action was needed to address the situation.

49. The mistreatment of children, not only in conflict zones but also in everyday social life, was also deeply troubling, particularly that of child soldiers and children accused of witchcraft.

50. The shortage of judges and magistrates and the lack of infrastructure within the justice system presented a continuing obstacle to the administration of justice and to the country's capacity to address social imbalances and build peace. Swift and wide-ranging action with the continued involvement of the international community and the International Criminal Court was needed to address those limitations and combat increasing impunity and crime.

51. **Mr. Mukongo Ngay** (Democratic Republic of the Congo) said that, while the report of the Independent Expert (A/61/475) accurately reflected the prevailing situation, the events on the ground were changing rapidly and there had been a number of recent positive developments that might go in some way towards allaying the concerns reflected in the report. For example, President Kabila and Vice-President Bemba had signed a reconciliation agreement declaring Kinshasa a weapon-free city. Furthermore, on 17 October 2006, an agreement governing good conduct among electoral candidates had been signed. All necessary measures had been taken to ensure that the violent disturbances of August 2006 would never be repeated.

52. The report was correct to draw attention to the continuing lack of security and to sexual violence and other human rights violations committed by the regular armed forces and the militias that were still active in the east of the country. It was important, however, to avoid treating the armed forces, responsible for defending the national territory and for ensuring order and security, in the same way as militias and other armed groups, which received much of their funding through exploitation of natural resources and were operating illegally in parts of Congolese territory under strong foreign influence. It should also be noted that most of the abuses had been committed by a number of renegade soldiers within the armed forces who had formerly belonged to rebel movements.

53. Large quantities of arms and munitions were entering the Democratic Republic of the Congo without restriction, chiefly from neighbouring States, and were used by those militias and armed groups. Responsibility for such trafficking lay not only with those neighbouring States, but also with manufacturing countries and those that transported the weapons into the Republic.

54. All State institutions were concerned by the scale, frequency and seriousness of acts of sexual violence and understood the need to prevent, suppress and punish such crimes and ensure proper care for the victims. To that end, in August 2006, Parliament had adopted a law against sexual violence. The law amended the Criminal Code by incorporating rules of international humanitarian law relating to crimes of sexual violence, and provided for the protection of victims of such crimes. The successful prosecution of crimes, including rape, in a number of cases mentioned in the report had given fresh impetus to efforts to address the shortcomings of the justice system, and gave reason for hope.

55. The transition process would continue to move forward. The scenes of violence observed and the potential pitfalls that still lay ahead were part of the growing pains of the Third Republic. Five hundred deputies had been elected to Parliament in free and democratic elections, and candidates for the Senate were already campaigning for election. Regarding the reform of the judiciary (ibid., para. 146), the recent promulgation of the Law on the Status of Magistrates was a positive step, since it enshrined the principles of independence of the judiciary and the separation of powers, bringing an end to the interference of politics in judicial affairs. Judicial practice was already being brought into line with those changes.

56. In order to ensure the success of the transition to peace and democracy, it was essential to ensure the administration of justice and to combat impunity. His

delegation therefore endorsed the recommendations of the Independent Expert, particularly the establishment of an international criminal tribunal for the Democratic Republic of the Congo or joint criminal chambers within existing Congolese courts.

57. **Mr. Cabral** (Guinea-Bissau) expressed his deep concern at the dismal situation reported by the Independent Expert, particularly since that account had been largely corroborated by the representative of the Democratic Republic of the Congo, although the more recent positive developments described gave some reason for hope. It was also of great concern that impunity continued to be a major problem, and that issue should be examined in greater depth by the United Nations and all those who were working untiringly and productively to address the situation.

58. The organization of elections alone, however fair, transparent and credible they might be, was insufficient to strengthen democracy. Citizens should be able to feel that they were respected, have confidence in the justice system, enjoy freedom of expression and of movement and participate freely in the country's management without fearing for their lives.

59. It was clear that much remained to be done. The authorities to be established following elections should make every effort to ensure that full democracy reigned throughout the country. Guinea-Bissau would undertake unceasing efforts to ensure greater assistance for the Democratic Republic of the Congo so as to enable democracy to flourish and to ensure the availability of resources, inter alia for the creation of jobs and schools.

60. **Ms. Kalamaki** (Finland), speaking on behalf of the European Union, commended the cooperation of the Congolese authorities with United Nations mechanisms in the area of human rights in strengthening good governance and the rule of law.

61. She asked the Independent Expert how he evaluated the current situation regarding the electoral process in the light of the acts of violence committed in August 2006, and how it might be possible to ensure that that process was peaceful and conducted in a spirit of reconciliation and national consensus. In that regard, it would be useful to have information on the Code of Conduct for the electoral process.

62. Lastly, she asked the Independent Expert for his opinion regarding the proposed law establishing a national human rights institution, which several parliamentarians had pledged to adopt and which was advocated also by civil society.

63. **Mr. Pacéré** (Independent Expert on the situation of human rights in the Democratic Republic of the Congo), responding to the question regarding the electoral process, said that despite allegations of fraud, contested results in some areas and the regrettable events of August 2006, it was important to recognize the achievements of the process — such as high voter turnout during the first round of elections — as well as its setbacks, and the fact that the ballot remained credible.

64. Civil laws and other arrangements had been put in place to ensure good conduct during future elections. In that regard, he asked the representative of the Democratic Republic of the Congo to clarify whether the Code of Conduct for the electoral process had in fact been adopted.

65. **Mr. Mukongo Ngay** (Democratic Republic of the Congo) confirmed that the Code of Conduct had been adopted and that the two election candidates were now engaging in dialogue. Such steps gave cause for optimism and hope for further progress.

*The meeting rose at 5.15 p.m.*

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## Third Committee

**Summary record of the 27th meeting**
Held at Headquarters, New York, on Monday, 23 October 2006, at 11 a.m.

*Chairman*: Mr. Al Bayati ..... (Iraq)

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Agenda item 67: Promotion and protection of human rights (*continued*)*

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)*

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*)*

* Items which the Committee has decided to consider together.

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06-58237 (E)

*The meeting was called to order at 11 a.m.*

**Agenda item 67: Promotion and protection of human rights** (*continued*) (A/61/36, A/61/97, A/61/220 and A/61/280)

**(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms** (*continued*) (A/61/211, 267, 281, 287, 289, 306, 311, 312, 324, 325, 338, 340, 348, 352, 353, 384, 464, 465, 476, 506 and 513)

**(c) Human rights situations and reports of special rapporteurs and representatives** (*continued*) (A/61/259, 276, 349, 360, 369 and Corr.1, 374, 469, 470, 475, 489, 504 and 526)

1. **Ms. Jilani** (Special Representative of the Secretary-General on Human Rights Defenders), introducing her report (A/61/312), said that its main focus was the right to freedom of assembly in relation to activities carried out by human rights defenders. To date, she had addressed 253 communications to governments regarding situations in which defenders had been denied the freedom of assembly or harmed while exercising that freedom. She was greatly troubled by the rising number of incidents which indicated an excessive and often indiscriminate use of force against defenders exercising their right to peaceful assembly, which was protected by several international and regional treaties and conventions, as well as by most national constitutions. There had also been incidents in which the authorities had used undercover personnel to instigate violence in peaceful assemblies in order to justify using violent means to disperse the assembly or to arrest people. She also highlighted, inter alia, paragraphs 53 to 60 and noted that, while all defenders were potentially vulnerable, women human rights defenders and those working specifically for the rights of lesbian, gay, bisexual and transgender persons had faced violence by state agencies and non-state actors in the exercise of the freedom of assembly. Their protection should receive more attention.

2. She urged States to increase efforts to provide conditions that would be conducive to activities for the defence of human rights. The situation presented in her report would not improve without a stronger commitment of governments and the international community towards enforcing respect for collective action for the promotion and protection of human rights.

3. **Mr. Llanos** (Chile) wondered whether the system for the protection of human rights defenders had the capacity to deal with violations committed by non-State actors. Noting that the general comments of the Human Rights Committee did not include any reference to article 21 of the International Covenant on Civil and Political Rights, which recognized the right of peaceful assembly, he asked whether it would be useful to the mandate of the Special Representative for the Human Rights Committee to draft a general comment on article 21 of the International Covenant. Would that help to remedy the apparent omission of provisions regarding non-State actors?

4. **Mr. Amorós Núñez** (Cuba) said that individuals who received large sums of money from a foreign Government to defend the policies of that Government and who openly opposed the application in their own country of the principle of territorial integrity and the right to self-determination could hardly be called defenders of human rights. The report of the Special Representative took the approach that such people were considered defenders of human rights. He wanted to know why the Special Representative did not also deal with the responsibilities of individuals who worked to protect and promote human rights.

5. **Ms. Leikas** (Finland), speaking on behalf of the European Union, asked how networks of national and international civil society organizations could be supported and strengthened by the United Nations. Also, the European Union had noted with concern the increase in prosecutions and convictions of human rights defenders on false and trumped-up charges which had nothing to do with their political activities. What could be done to monitor such trials in a more effective way?

6. **Ms. Ajamay** (Norway) said that her delegation wished to encourage the Special Representative to continue focusing, through the complaints procedures, on violations against defenders working on the rights of lesbian, gay, bisexual and transgender persons, and of women defenders. The Special Representative had pointed out that she did not have the capacity to ensure proper follow-up in those cases. Her delegation would welcome her views on how special procedures could be strengthened and how cooperation between special

procedures and the Human Rights Council could be enhanced.

7. **Ms. Filotas** (Canada), noting that violations of the right to assembly were often a barometer indicating the general atmosphere with regard to human rights, asked how an assessment of the situation of human rights defenders could be used as part of an early warning system.

8. **Ms. Fontana** (Switzerland) asked whether a more consistent and specific policy on the protection of freedom of expression of human rights defenders could be developed, especially in the framework of country teams working with United Nations programmes and United Nations offices around the world.

9. **Mr. Babadoudou** (Benin) said that in recent years, his country had had to deal with the problem of the freedom of assembly of human rights defenders. It was easy to talk about freedom of expression, but in real life, the situation was not as straightforward as some might think. There was often a very thin line between freedom of assembly and vandalism, between freedom of expression and defamation. Journalists must be responsible for what they said.

10. **Mr. Prabowo** (Indonesia) said that his Government looked forward to receiving a visit from the Special Representative in the near future. There was a need for cooperation in capacity-building for law enforcement authorities in developing countries. He would like to hear the views of the Special Representative in that regard.

11. **Mr. Ceinos-Cox** (United States of America) asked what recommendation could be made to States, the international community and non-governmental organizations to address the problem of impunity of government officials, in particular those who violated the rights of human rights defenders.

12. **Ms. Jilani** (Special Representative of the Secretary-General on Human Rights Defenders) said that the Chilean delegation's concern regarding the accountability of non-State actors had been addressed to some extent by enforcing the concept of State responsibility. That was linked to the question of impunity that had been raised by the United States representative. Where States had failed to hold non-State actors responsible for their human rights violations, especially against human rights defenders, impunity had become a cycle that was difficult to break. Impunity was symptomatic of a weak institutional system. A government's political will must be matched by its efforts to strengthen its institutions. Impunity was one of the major issues she had highlighted in her first report, submitted in 2001. She agreed that it was important to receive guidance from the Human Rights Committee, especially with regard to article 21 of the International Covenant on Civil and Political Rights.

13. Regarding the comments made by the representative of Cuba, she said that those who took up the cause of human rights defence and promotion did so from commitment and not from any mercenary motive; nevertheless, many genuine human rights defenders had undeservedly been charged with all kinds of false motives. Persons who did not act in good faith or who were motivated by any consideration other than the promotion of human rights would not qualify as human rights defenders. Civil society had the right and the responsibility to promote and protect human rights and democracy, not undermine them.

14. She thanked the European Union for the guidelines on human rights defenders, which were helping to develop a culture that would be conducive to implementation of the Declaration on Human Rights Defenders. She too was worried about the use of judicial procedures to prosecute human rights defenders and felt that the international community had a responsibility to ensure that the trials were monitored. She hoped that many of the standards that were already in place in international instruments could be enforced in cases where human rights defenders were undergoing trial and that the international community's legitimate concern on observation of trials would be met by the countries concerned.

15. She hoped that every mandate that was being implemented would have the kind of support that was needed to follow up on recommendations. It was her responsibility to make recommendations, but many agencies in the United Nations system, the international community and the regional bodies also had a responsibility for following up on recommendations. As noted in her report, the interest of a Government in issues relevant to her mandate was keenest during and immediately following the mission; hence, time was of the essence. She needed resources and support to enable her to carry out timely follow-up visits. It would also be very helpful for regional groups to meet with her to discuss regional trends. Sometimes

it was better to follow a regional approach in order to influence specific countries.

16. All Special Rapporteurs and special procedure mechanisms brought forth information which, if properly weighed, would clearly provide early warning signs. In the case of human rights defenders, in particular, the situations that were brought to the attention of the Human Rights Council or the General Assembly reflected a human rights context that could be viewed as early warning signs of the context in which human rights defenders were working.

17. The cumulative work done under her mandate should be analysed with a view to developing a specific strategy for the protection of human rights defenders, based on the experiences and preferred practices followed by countries. Several countries had taken measures to create internal mechanisms in support of external and regional initiatives. The work should be ongoing until the strategy was widely recognized as indispensable for all States to implement with respect to their domestic or international policy.

18. She understood some of the concerns expressed by the representative of Benin. Nevertheless, it must be borne in mind that actions of human rights defenders, which were often a consequence of a government's lack of tolerance of criticism, should not be characterized as vandalism or defamation if there was an element of constructive criticism in the use of the freedom of expression and assembly by the human rights defenders. Governments must be aware that how they responded to criticism and exposure of human rights violations was the key to making such criticism constructive. Where governments had not responded or had failed to take criticism in the spirit in which it had been made, tensions had emerged.

19. She thanked the Government of Indonesia for its invitation, and hoped to be able to undertake the visit soon. She was keen on building capacity to enable law enforcement personnel not only to recognize human rights activity but also to fully respect it. She hoped that better cooperation between the Government of Indonesia and the Office of the United Nations High Commissioner for Human Rights would help law enforcement and other authorities to recognize and protect human rights activities.

20. **Mr. Nowak** (Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment), introducing his report (A/61/259), expressed surprise at the lack of awareness among domestic law enforcement officials and politicians that torture constituted one of the most serious human rights violations. All 141 States parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment had undertaken to criminalize torture as defined in article 1 by creating one or more specific offences in their criminal codes. However, passing laws, like ratifying treaties, was just the beginning. The real commitment of States was demonstrated by the implementation of the treaties they had ratified. The main reason why torture continued to be practised in many countries and regions was the lack of effective investigations of allegations of torture and prosecutions of public security officials, as well as redress for victims. Governments must embrace efforts to eradicate that abhorrent practice.

21. Turning to country visits, he commended Georgia, Mongolia, Nepal and the People's Republic of China for the cooperation they had extended to him during his visits to those countries in 2005 and the continuing constructive dialogue in the follow-up to his recommendations. Paragraphs 6 to 12 of the report contained details of his visit to Jordan in June 2006. He had cancelled his scheduled visit to the Russian Federation in October 2006 shortly before it began upon being informed by the Russian Government that some elements of the terms of reference for visiting detention facilities would contravene Russian legislation. Yet those terms had been outlined to the General Assembly and the Human Rights Council beforehand and had governed the country visits of his predecessor and his own visits the previous year to that country. He had been assured by the Government that a mutually agreeable solution would be arrived at to ensure that the mission could soon proceed. In a tragic twist of fate, the scheduled starting date for his mission had coincided with the murder of Russian journalist and human rights defender, Anna Politkovskaya, who had documented the war in Chechnya and the human rights violations taking place there, including torture and ill-treatment. Other country visits were scheduled for Paraguay later in 2006 and for Sri Lanka, Nigeria and Togo in 2007. He also hoped to receive an invitation from Indonesia for a mission to that country in 2007.

22. The best way to combat torture was to focus on prevention. To be effective, prevention measures must

be carried out locally by independent national institutions. Therefore, many of his activities had been directed towards promoting ratification of the Optional Protocol to the Convention against Torture. He then referred to paragraphs 74 and 75 of his report, which contained it conclusions.

23. Anti-torture measures and initiatives were often more timely and responsive at the regional level. Much of his work was therefore devoted to building partnerships with regional human rights organizations. His activities in that area included advocacy of anti-torture measures, meetings, workshops, training, information exchange and coordination of future activities, all aimed at mutually reinforcing human rights mechanisms. While cooperation with European regional organizations had made up a large part of those activities, he had also sought to strengthen ties with the Organization of American States and the African Union. He had been invited to participate in the 40th ordinary session of the African Commission on Human and Peoples' Rights in November 2006.

24. **Mr. Amorós Núñez** (Cuba) asked whether, in the opinion of the Special Rapporteur, the anti-terrorism legislation passed by some countries actually amounted to their condoning torture.

25. **Ms. Ajamay** (Norway) said that article 15 of the Torture Convention was fundamental for the credibility of the efforts to eradicate torture. However, it was difficult to tell whether a statement had been derived from torture. She asked whether the Special Rapporteur had discussed his approach with the United Nations Committee against Torture to ensure that they did not have competing interpretations of the burden of proof.

26. **Mr. Vohidov** (Uzbekistan) noted that the legislative and administrative measures introduced by his Government pursuant to the recommendations of the 2002 report of the Special Rapporteur on torture (E/CN.4/2003/68) had already resulted in the prosecution of more than 100 law enforcement officials for the use of torture, while the number of cases being investigated by the ombudsman had been reduced by half, yet the Special Rapporteur continued to criticize his country for the systematic use of torture. He wondered how the "systematic use of torture" was defined.

27. **Ms. Filotas** (Canada) asked whether the Special Rapporteur was still receiving information on gender-related acts and whether he had plans to devote greater attention to gender issues.

28. **Ms. Leikas** (Finland), speaking on behalf of the European Union, wished to know how the European Union could assist the Special Rapporteur in securing invitations for country visits and respect for his terms of reference. She wondered how overlaps could be avoided in the activities of different human rights bodies and how the problem of communications with Governments being "one-sided affairs" could be remedied.

29. **Mr. Kim** Pil-woo (Republic of Korea) said he shared the Special Rapporteur's concern that some countries were attempting to question the absolute nature of the prohibition of torture. A strong mandate for the Special Procedures as well as the universal periodic review currently being discussed by the Human Rights Council would help promote human rights, and particularly the eradication of torture.

30. **Ms. Tchitanava** (Georgia) said that her Government was making efforts to implement the Special Rapporteur's recommendations including by ratifying the Optional Protocol to the Torture Convention, recognizing the competence of the Committee against Torture to consider complaints and amending the Criminal Code to bring the definition of torture into line with the Convention. Furthermore, special cameras had been installed at all new prisons as a monitoring mechanism while a national plan was being drafted to make Georgia a "torture-free zone".

31. That goal could not be fulfilled in the secessionist regions of South Ossetia and Abkhazia, however. Violations of basic human rights including murders or disappearances of civilians were taking place in a zone that was under the responsibility of Russian peacekeepers, who were doing virtually nothing to stop them. The death penalty, which had been abolished in Georgia in 1997, was still in force in Abkhazia. Only with the assistance of the international community and non-governmental organizations would it be possible to monitor and improve the situation in the conflict zones.

32. **Mr. Aksen** (Turkey) said that United Nations mechanisms such as treaty bodies or special rapporteurs often ignored the work of regional organizations. Furthermore, when they took a different approach from that of regional organizations, States were placed in a difficult position. He wondered whether the Special Rapporteur could elaborate further

on his cooperation with regional organizations and whether he had any recommendations on how the situation might be improved for his own mandate and for other mandate holders.

33. **Mr. Nowak** (Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment), in reply to the representative of Cuba, said that, while the concept of human rights must necessarily be flexible in the fight against terrorism, some rights were absolute, including the prohibition against torture. While counter-terrorism measures were necessary, legislation in that area — and associated interrogation methods and secret places of detention — must not restrict that absolute prohibition. Governments must not resort to diplomatic assurances in the context of torture; in so doing they undermined the absolute prohibition against *non-refoulement*. He expressed concern at any laws being enacted by governments that might lead to a more narrow interpretation of torture than the definition contained in article 1 of the Torture Convention, and which might authorize interrogation methods that would amount to torture or other cruel, inhuman or degrading treatment or punishment. It was important not to make exceptions of that kind, with the justification of the "ticking bomb scenario".

34. In response to the representative of Norway, he recalled the German and United Kingdom judgments referred to in his report, in which he felt that the necessary consequences of article 15 of the Torture Convention had not been sufficiently taken into account. In the light of well-founded allegations of torture under article 15 of the Torture Convention, the burden of proof must shift to the State to establish that evidence invoked against an individual had not been obtained under torture. His approach to the interpretation of article 15 was consistent with that of the Committee against Torture, as it was on other controversial issues such as the use of diplomatic assurances.

35. In reply to the representative of Uzbekistan he said that caution was necessary in defining the systematic practice of torture, but that particular inspiration could be drawn from resolutions 1503 and 1235 of the Economic and Social Council; case law; and article 3 of the Torture Convention. The "systematic" practice of torture did not necessarily mean that it occurred as part of Government policy: the term could be used if acts of torture were widespread, well known, and the Government was not taking sufficient remedial action. In his country reports, he had only used that definition once, to date, in relation to Nepal; however, the situation in that country had since improved.

36. Responding to the comments of the representative of Canada, he expressed concern that the vast majority of individual cases brought to his attention concerned men. He had received very few communications concerning female genital mutilation, for example, which he would consider as torture or other cruel, inhuman or degrading treatment. Even when acts of torture were committed by non-State actors, if those acts were condoned by the State, there was deemed to be torture under article 1 of the Torture Convention. He hoped that more cases would be brought to his attention. His subsequent report would focus on gender-related practices, in particular traditional practices, such as genital mutilation and cases of corporal punishment such as the stoning of women for reasons of adultery, which amounted to torture or other cruel, inhuman or degrading treatment or punishment.

37. In reply to the representative of the European Union, he expressed concern that sufficient attention was not being paid to the terms of reference of fact-finding missions under Special Procedures. In his case those terms of reference included access to, and free movement around, all places of detention and the possibility of speaking in private to prisoners. He had regretted the last-minute cancellation of two fact-finding missions — one to Guantánamo Bay and one to the Russian Federation — because of lack of assurances from the respective Governments that those basic elements would be respected. He would be grateful if the European Union could convince other Governments that those terms of reference were sacrosanct and non-negotiable.

38. Turning to the issue of future cooperation with other human rights mechanisms and regional cooperation, he said it was important to apply the principle of subsidiarity: regional organizations were often in a better position to assess and monitor the situation in particular countries. However, it was necessary to avoid overlap and duplication between regional and international activities. With regard to the lack of response on the part of the majority of Governments regarding individual communications, he appealed to States to strengthen, as a matter of urgency, their cooperation with the Special Procedures. He

agreed with the representative of the Republic of Korea on the importance of the Universal Periodic Review, which should ensure non-selectivity in dealing with country situations. For it to be effective, however, it must be based on a clear division of labour between Governments' political bodies, on the one hand, and independent experts, on the other. He welcomed the commitment expressed by the representative of Georgia to the implementation of his recommendations, and ratification of the Optional Protocol, but shared her concern at the deteriorating situation in Abkhazia and South Ossetia and at the continued existence of the death penalty. He described his current activities in the area of regional cooperation, which was an important aspect of his mandate, and one to which the Third Committee might wish to give greater clarity in its respective resolutions.

39. **Ms. Halabi** (Syrian Arab Republic) said that it was important not to politicize issues such as the stoning of women for reasons of adultery, which was provided for by the Koran, providing certain conditions were met. She recalled that, in accordance with the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in 1993, religious specificities must be borne in mind when promoting and protecting human rights.

40. **Mr. Chernikov** (Russian Federation) said that the lack of agreement regarding the terms of reference of the Special Rapporteur's visit to the Russian Federation had not emerged at the last minute and arose from their incompatibility with national laws, which must be respected. Under those laws, prisoners could not be visited without Court permission.

41. **Mr. Nowak** (Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment) agreed that the universality of human rights must be balanced with the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights, which provided that national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind. That might apply to corporal punishment, for example. Stoning for reasons of adultery, however, was a clear violation of article 7 of the International Covenant on Civil and Political Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as supported by abundant case law, discriminated against women and was never acceptable. It was not a matter of politicization but of international human rights law and he appealed to those States where the practice was still allowed to change their penal legislation.

42. With regard to his visit to the Russian Federation, he read out the relevant provision of the legislation concerning penitentiary institutions and their supervision, which explicitly provided for the possibility of representatives of international organizations authorized to supervise respect for human rights to visit — without permission — penitentiary institutions and pre-trial detention centres. That provision was already applied to other similar visits, such as those by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the United Nations High Commissioner for Human Rights and should similarly apply to the special procedures established by the Commission on Human Rights. He had been assured that the matter was being looked into and hoped to receive a positive response, enabling him to carry out his visit.

*The meeting rose at 1 p.m.*

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## Third Committee

**Summary record of the 28th meeting**
Held at Headquarters, New York, on Monday, 23 October 2006, at 3 p.m.

*Chairman:* Mr. Rachkov (Vice-Chairman) ..... (Belarus)

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Agenda item 67: Promotion and protection of human rights (*continued*)

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06-58245 (E)

*In the absence of Mr. Al Bayati (Iraq), Mr. Rachkov (Belarus), Vice-Chairman, took the Chair.*

*The meeting was called to order at 3.10 p.m.*

**Agenda item 67: Promotion and protection of human rights** (*continued*) (A/61/36, 97, 220 and 280)

**(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms** (*continued*) (A/61/211, 267, 281, 287, 289, 306, 311, 312, 324, 325, 338, 340, 348, 352, 353, 384, 464, 465, 476, 506 and 513)

**(c) Human rights situations and reports of special rapporteurs and representatives** (*continued*) (A/61/276, 349, 360, 369 and Corr.1, 374, 469, 470, 475, 489, 504 and 526)

1. **Mr. Kälin** (Representative of the Secretary-General on the human rights of internally displaced persons), introducing his report (A/61/276), said that conditions for internally displaced persons (IDPs) had changed sufficiently for the better in some contexts, such as in Nepal and Uganda, to allow such persons to initiate the process of reintegration, reconciliation and reconstruction. However, the situation had deteriorated in other places, such as in Darfur and Iraq, where the number of IDPs kept growing while Governments and the international community seemed unable or sometimes unwilling to provide them with meaningful protection.

2. He had been saddened to witness desperate situations, where innocent lives had been cut short by disease, lack of food, and violence, and where people became a burden instead of leading productive lives. A constant refrain during his visits to IDPs was their sense of marginalization resulting from forced or arbitrary displacement. He had proposed policy guidelines and practical tools to help those responsible for protecting IDPs to better discharge their duties. The recognition of the Guiding Principles on Internal Displacement in the 2005 World Summit outcome document and the host of invitations he had received from Governments and organizations were highly encouraging.

3. He reviewed the conclusions and recommendations contained in paragraphs 67-78 of his report. He particularly commended the Governments of Turkey, Georgia and Uganda for taking his call seriously regarding the establishing of a legal and policy framework — as had the Governments in the African Great Lakes region and States members of the African Union.

4. Regarding the need to find durable solutions for IDPs and for returnees, he said it was crucial to ensure that their rights and needs were taken into account during peace negotiations and transitional arrangements. Displacement could be considered at an end only when the person had found a durable solution to his or her situation and access to the recovery of violated rights or to reparation or compensation.

5. He called on the international community, including the United Nations and regional organizations, to strengthen support to the Governments of countries with IDPs, on the United Nations agencies and the Inter-Agency Standing Committee country teams to continue to implement the cluster approach in a bid to provide more predictable assistance and better accountability, and on regional organizations to continue their regional efforts and to promote implementation of the Guiding Principles through the adoption of laws in their various regions. The sheer magnitude of displacement often made outside aid essential; he therefore urged donors to support Governments as they addressed not only the humanitarian crisis caused by internal displacement but also the reconstruction of their countries and the search for durable solutions.

6. **Mr. Butagira** (Uganda) said the widespread displacement in Uganda had stemmed from the expansion of attacks by the Lord's Resistance Army, with which the Government had established dialogue. Hostilities had ceased and, despite some minor setbacks, the negotiations were on course and the Government was determined to see them to a successful conclusion. Morale was high and a reversal was unlikely. Immediately the people of northern Uganda had heard of the cessation of hostilities, they had started to return to their homes; 400,000 had already returned. The Government was helping by decongesting those areas, which could be seen as one of the peace dividends for northern Uganda.

7. The Joint Military Commission was addressing ways of improving conditions in camps for IDPs. High on its agenda was the institution of law and order in the north. Hundreds of policemen had been recruited to

take over law-and-order duties from the army. Assistance had also been given to the Amnesty Commission, responsible for the reintegration of people formerly engaged in rebel activities, and for transnational justice and reconciliation activities.

8. In Juba, a very different situation prevailed. The Government had stepped up the disarmament of warriors and there had been much improvement on the ground. All of the foregoing attested to the Government's increasing efforts to improve the situation of IDPs and to do away with the concept of internal displacement.

9. **Mr. Saeed** (Sudan) took issue with the Representative's remark that the Sudanese Government was unwilling to confront the problem of internal displacement. He would like to know on what basis the Representative had made that assessment. The Representative might have mentioned the many measures taken and the positive developments achieved — not least the Darfur Peace Agreement of May 2006 designed to normalize the situation — and the need for the international community to increase its support. The question of internal displacement should not be politicized. He requested the Representative to answer his question in a manner that took the Sudan's peace consolidation efforts into account. Also, was his reference to a study on the integration of IDPs into the peace process the peace process in the Sudan or some other peace process?

10. **Mr. Kruljević** (Serbia) said his country was dealing with 250,000 IDPs. Since the conditions for safe return, including security, property issues and living conditions, had not yet been satisfactorily established, only 12,000 had been able to return. Efforts needed to focus on creating an environment that sustained return. His Government was committed to cooperating with the Representative and would give every consideration to his recommendations on ways of providing safe return.

11. **Ms. Fontana** (Switzerland) said that the humanitarian difficulties faced by IDPs were of great concern to the Swiss authorities. She would like to hear the Representative's experience of non-State actors' implementation of the Guiding Principles on Internal Displacement. Regarding northern Uganda, what lessons did the Representative think were to be drawn from earlier processes?

12. **Ms. Ajamay** (Norway) expressed her delegation's satisfaction that the Secretary-General's review of the Representative's mandate (A/61/276, para. 3) had deemed it to be positive and to complement the work of the United Nations agencies and of civil society. She would be interested to hear the Representative's opinion of the United Nations agencies' follow-up to his missions at the country level. She asked whether their collaboration in the field had been total, and what improvements, if any, could be made.

13. **Mr. Wenaweser** (Liechtenstein) said the Representative's mandate was a very important one and provided a unique opportunity for synergies within the United Nations system. While some progress had been made in legislation, much remained to be done with regard to implementation. The plethora of invitations extended to the Representative attested to the effectiveness of his role. He asked how the latter intended to place his expertise at the disposal of the newly established Peacebuilding Commission. While voluntary return was a gradual process, he wondered about long-term displacement and whether it was feasible for an IDP to return home after decades of displacement.

14. **Mr. Moreira** (Brazil), referring to the extent of consultation with non-State stakeholders, asked whether the Representative experienced difficulty of access to civil society and NGOs.

15. **Ms. Pohjankukka** (Finland), speaking on behalf of the European Union, said she shared the Representative's concern about the situation of IDPs, especially in Sri Lanka and the Sudan. She would like the Representative to elaborate on action needed to resolve land issues, including those relating to informal collective property of indigenous people and on how United Nations agencies could be coordinated with a view to strengthening the overall protection system and the protection of IDPs in particular.

16. **Mr. Montoya Pedroza** (Colombia) said the situation of IDPs called for strenuous preventive and protective measures, including policies on social and economic reintegration, which in Colombia were included in the national plan. Given the budgetary allocations and technical work required, how could the United Nations and other agencies link up in order to find a lasting solution? The cluster approach, supposedly aimed at improving coordination at the

country team level, appeared to assume the existence of a concept that was not part of agreed language.

17. **Ms. Adjalova** (Azerbaijan) said her country was home to one of the largest populations of IDPs in the world and appreciated the need to address the challenges of internal displacement from a context-specific perspective. In that connection, her delegation urged the Representative to analyse the causes of internal displacement, the needs of IDPs, and solutions that took account of specific situations, as he was encouraged to do in General Assembly resolution 60/168.

18. Her delegation looked forward to the Representative's report on the consultations with IDPs at all stages of displacement in order to identify their needs and concerns. It also hoped he would give more consideration to protracted mass displacement, from the viewpoint of the strengthened and improved United Nations response, in his future reports to the General Assembly and the Human Rights Council. She reiterated her delegation's invitation to him to visit the country as soon as was feasible.

19. **Ms. Tchitanava** (Georgia) said that the secessionist regimes' seizure of territory in Abkhazia and the Tskhinvali region/South Ossetia had made for mass internal displacement, not to mention ethnic cleansing and genocide against Georgians. Yet there was no proof whatsoever of genocide perpetrated by Georgians at any time in their history. During his visit to Georgia (ibid., paras. 8-11), the Representative had been concerned that the return of IDPs who had fled Abkhazia 15 years earlier had been hampered by the lack of political solutions, by discriminatory measures and by widespread insecurity. He had called on the parties to the Quadripartite Agreement on Voluntary Return of Refugees and Displaced Persons to cooperate in facilitating return movements and creation of conditions conducive to voluntary, safe and dignified return.

20. He had urged the de facto authorities in Abkhazia not to take measures incompatible with the right of return and with international human rights standards, to admit United Nations civilian police without further delay and to cooperate in the establishment of a permanent international human rights office in Gali, as repeatedly urged by the Security Council. He had been gravely concerned at the economic and social marginalization and poor living conditions of IDPs. The Government of Georgia was doing its utmost to improve their living conditions and integrate them into local societies.

21. The 1996 Law on Internally Displaced Persons protected their rights and legal interests, while work was under way on a comprehensive action plan and legislation for restitution of property consistent with international standards. Upon return to their permanent place of residence, IDPs would receive rehabilitation guarantees. Her Government was persuaded that only intensive international cooperation at all levels would mainstream the human rights of IDPs, ease their sufferings and facilitate their ultimate return. In that regard, she urged the Representative to continue the dialogue with the United Nations.

22. **Mr. Aksen** (Turkey) asked what activities the Representative of the Secretary-General was undertaking to ensure capacity-building, and what positive effects those would have in connection to his mandate.

23. **Ms. Assoumou** (Côte d'Ivoire) said that the issue of IDPs had been of great concern to her Government since the start of the crisis of 2002. Her country had done its utmost to help ensure the safety of its displaced population, including through the establishment of the Ministry of Solidarity, Social Security and Disability and a fund-raising campaign. The reason Côte d'Ivoire did not have special tents or villages set up for its displaced population was that relatives had taken them in. Furthermore, the Government had repatriated its nationals who had sought refuge in other countries owing to the crisis. However, the situation had not completely stabilized; there remained armed groups and a continued movement of persons to safer areas. It was not the Government but the proliferation of weapons that was responsible for the human rights violations mentioned in the report; in that regard, she called for the disarmament of the illegally armed combatants. She clarified that impunity was not relevant to her country, as its judicial system had functioned effectively throughout the crisis, and all perpetrators of crimes were brought to justice. She called upon the international community to help Côte d'Ivoire address the increase in displaced persons.

24. **Mr. Khoshnaw** (Iraq) said that he wished to clarify that his Government had made every effort to protect its population, in the framework of its national

plan for reconciliation, which included a paragraph relating to IDPs and their protection. Furthermore, the Iraqi Government endorsed two conferences being planned, one on national reconciliation, under the aegis of the Arab League, and another under the aegis of the Organization of the Islamic Conference, in its aim to achieve reconciliation among all factions and put an end to the violence responsible for the displacement of Iraqis. The Representative of the Secretary-General should take those efforts into account before levelling accusations on the willingness or ability of the Government to address the situation of IDPs.

25. **Mr. Kälin** (Representative of the Secretary-General on the human rights of internally displaced persons), responding to the questions raised, said that he was encouraged by the recent developments in Uganda, where efforts should now focus on the sustainable return of IDPs. In response to the representative of the Sudan, he said that his study focused on peace processes in general and drew on a number of examples aside from the Sudan. He recognized that efforts had been made with regard to the Darfur situation, but the situation of IDPs there remained far from satisfactory, with recent setbacks.

26. Regarding Serbia, there was a need to resolve property issues and to create conditions conducive for returnees to return and stay. He encouraged those involved in relevant negotiations to emphasize the rights of IDPs.

27. Responding to the comments by the representative of Switzerland, he said that he was indeed calling for non-State actors to respect and implement the Guiding Principles. Unfortunately, he had not had many positive responses to his appeals, and hoped that his recommendations would be implemented. He had appealed to non-State actors in Nepal to adopt a positive approach towards a durable solution for the return of IDPs there, in line with the Guiding Principles, which he hoped would lead to dialogue.

28. With regard to the lessons learned in northern Uganda, efforts made in the areas of development, the rebuilding of infrastructures and the reopening of basic services needed to go hand in hand with the humanitarian assistance provided to returnees. Secondly, mechanisms should be set up to address land disputes. Thirdly, the Government needed to work with the relevant actors, including traditional leaders of IDPs and local authorities to address realities on the ground.

29. To ensure the mainstreaming of the human rights of IDPs into the activities of United Nations agencies, he regularly debriefed those agencies and made frequent contact with them. The results from those efforts were mixed depending on the country.

30. The Peacebuilding Commission played an important role in addressing IDPs, as it was responsible for building conditions for durable solutions to the issues IDPs faced, whether for their return or local integration. He would attempt to outline that role through a study which would explore the relationship between the concept of peacebuilding and the challenges facing IDPs.

31. Turning to the question of the return of IDPs after a long period of time, the guiding principle was to ensure that IDPs had the right to choose where they wished to live and to recover their property.

32. On the question of operationalizing approaches at the United Nations level, Heads of States or Government had recognized the Guiding Principles as an important international framework for IDPs. United Nations agencies needed to further discuss ensuring the protection of IDPs in practice, under the existing institutional framework for that purpose.

33. The cluster approach was not a new concept, but was meant to improve the collaborative approach already endorsed by the General Assembly, by assigning responsibilities to agencies in order to coordinate humanitarian responses.

34. Regarding country visits, he would be visiting Azerbaijan in the first half of 2007, and was pleased to have been invited to Georgia for a follow-up visit on the implementation of a new approach in its IDP policy.

35. He had not had the opportunity to cover the situation in Iraq in depth, but acknowledged the efforts the Government had made; the situation in the country indeed hindered the ability to ensure displaced persons were protected at all times. It was encouraging that an IDP policy was being developed, and he looked forward to working with the Iraqi authorities in the future.

36. **Mr. Saeed** (Sudan) said that he wished to know how the Representative had reached his conclusion on

the "unwillingness" of the Government of the Sudan to protect IDPs. That was a highly politicized statement and a serious and unacceptable accusation, which he wished to see withdrawn.

37. Also, he wished to know which peacekeeping operations the Representative had in mind with reference to capacity-building and the inclusion of an IDP component in peacekeeping operations in the Sudan.

38. **Mr. Kälin** (Representative of the Secretary-General on the human rights of internally displaced persons) clarified that he had not made such a sweeping statement about the Government's unwillingness, but had said that it seemed "unable and sometimes even unwilling" to protect the lives of IDPs. There had been well-known instances of a lack of cooperation and of the vigorous steps needed to address the dangers to which IDPs had been exposed. He would welcome an opportunity to visit the country and see for himself.

39. **Ms. Jahangir** (Special Rapporteur on freedom of religion or belief), introducing her interim report (A/61/340), said that it set forth concerns about the limitations on the manifestation aspect of the right to freedom of religion or belief, including the display of religious symbols, the possession of religious literature and the right to propagate. The report also addressed the particular vulnerability of members of religious minorities and persons deprived of their liberty to violations of that right. There had also been fresh attempts to legislate against certain forms of conversion over the past few years.

40. She had conducted visits to Azerbaijan and the Maldives, and would present her reports on those visits to a future session of the Human Rights Council. In Azerbaijan, she had observed a high degree of tolerance among the population in general. However, while the Government generally respected the freedom of religion or belief, that was not true for all regions of the country, as there had been cases of limitations imposed by the authorities on individuals and religious communities.

41. In the Maldives, she had observed the desire of the people to maintain peace and harmony, but was concerned by de jure and de facto limitations on the right to freedom of religion or belief of non-Muslims in the country. She welcomed the Government's recent accession to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. However, she hoped that the Government would take steps to review its reservation to article 18 of the latter as soon as possible.

42. She had received invitations for country visits from the Governments of Tajikistan and the United Kingdom. While the Government of Israel had extended an invitation the previous year, it had not yet responded to her request for specific dates. She had requested invitations from a number of Governments over the past year, and urged their timely response. She continued to be concerned that some of the worst violations of religious freedoms came from countries which were inaccessible to the mandate.

43. Her report also contained recommendations to the United States Government on some of its techniques for interrogating detainees at Guantánamo Bay.

44. She welcomed the request from the Human Rights Council (ibid., para. 5) to submit a report on the trend of defamation of religions and incitement to racial and religious hatred or belief, in particular its implications for article 20, paragraph 2, of the International Covenant on Civil and Political Rights. Indeed, an open discussion on that issue needed to be encouraged. In the age of globalization, a balanced approach should be taken to ensure that universal human rights were not undermined to achieve short-term gains. She urged Member States to ensure that there was no impunity for incitement to religious hatred, and she encouraged the Human Rights Committee to seriously consider drafting a detailed general comment on that matter, as defined by article 20 of the Covenant.

45. She stressed that, while there was often a tendency to view freedom of religion or belief in a narrow sense, it was essential to ensure that that right added to the values of human rights and did not unintentionally become an instrument to undermine freedom.

46. **Ms. Pohjankukka** (Finland), speaking on behalf of the European Union, said that it was critical to create greater tolerance and combat all forms of discrimination based on religion or belief and incitement to religious hatred. The European Union reiterated its readiness to engage in constructive and genuine dialogue, as called for by the Special Rapporteur.

47. She wished to know whether the Special Rapporteur considered that the principles of freedom of religion and belief should always be enshrined by law. She also wondered whether the Special Rapporteur had come across situations in which persons with no religious ascription had suffered from discrimination. The Special Rapporteur had held consultations with representatives of the Holy See; she wondered whether consultations would also be held with religious leaders of other confessions. She asked whether the Special Rapporteur had noted any changes in the situation of the persecution of members of the Baha'i community in the Islamic Republic of Iran.

48. **Mr. Vohidov** (Uzbekistan), recalling that the Special Rapporteur had indicated that Governments must more actively combat the religious intolerance which was growing with globalization, said that Uzbekistan, at the most recent Shanghai Cooperation Organization summit, had particularly emphasized the risk that international terrorism would come to be associated with Islam. When the Western press had published caricatures of the Prophet Muhammad, they had triggered ill-considered comments which damaged the reputation and honour of millions of people. The international community must make a consistent effort to improve mutual understanding among different ethnic and religious groups.

49. Despite the difficulties of having a transitional economy, Uzbekistan had managed to maintain an environment of political stability, civil peace and ethnic and religious harmony, in which over 100 ethnic and national groups coexisted and in which rights and freedoms were upheld. Over 2,200 religious organizations, belonging to 16 faiths, were registered in the country. Since independence, there had been no instances of inter-ethnic or inter-religious conflict in Uzbekistan.

50. In the interests of being able to assess Government action objectively, he would like to know if the Special Rapporteur could provide insight on the principles and mechanisms for Government monitoring of the content of religious publications and on how to determine how strict that monitoring should be.

51. **Ms. Adjalova** (Azerbaijan) said that the high level of religious and ethnic tolerance in Azerbaijan had been an integral part of the country's history and tradition. Azerbaijan was always willing to share its experience and best practices on inter-religious dialogue and cooperation, and had hosted a number of regional and international meetings and events on that subject. Her Government looked forward to further cooperation with the Special Rapporteur to address the remaining gaps in the promotion and protection of the right of freedom of religion or belief.

52. **Mr. Latheef** (Maldives) said that although his country was small, its population had maintained harmony for a long period of time. Through the Constitution of 1932, it had promulgated Islam as the sole religion, and the country had enjoyed relative peace and stability, without any major challenges to that aspect of the Constitution. Nevertheless, his Government had embarked on a major process of political and constitutional reforms, and the people would themselves adopt the best practices in that regard.

53. The country was undergoing unprecedented political difficulties and instability; in that regard, he hoped that the issues the country needed to address would be commensurate with its ability to resolve them.

54. **Ms. Filetas** (Canada) said that Canada agreed with the Special Rapporteur that issues of freedom of religion or belief were linked to the level of democracy of a society. With regard to the Special Rapporteur's call for the development of a common global strategy to deal with rising religious intolerance, she wished to know how the international community, in drawing up such a strategy, could ensure respect for fundamental rights while also ensuring that regional contexts were taken into account, and how it would ensure that the voice of religious minorities could be heard.

55. **Mr. Cabral** (Guinea-Bissau) said that his delegation had been struck by the difficulties which still remained 25 years after the adoption of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, despite the central place occupied by the freedom of thought, conscience and religion in the Universal Declaration of Human Rights and the indivisibility of any one category of human rights from any other. As no free, democratic society could exist without religious freedom, the new phenomenon of stigmatizing individual religions and their adherents must be tackled. Having the wrong appearance, through wearing a beard or having a particular style of dress, had become almost a crime, hindering free

movement and the development of individuals and society. The Special Rapporteur deserved the support of the Third Committee and of all Governments in her difficult task of encouraging people to see beyond the differences of race and religion. The growing intolerance highlighted by the Special Rapporteur must be replaced by harmony and understanding, which were essential to peace and security.

56. **Mr. Cumberbatch Miguén** (Cuba) said that his delegation would be interested to know the views of the Special Rapporteur on the pressure facing adherents of non-mainstream religions. The experience of 1,500 years of colonization had led to many traditional practices being forgotten or marginalized. Following the adoption of the United Nations Declaration on the Rights of Indigenous Peoples, he wondered how to continue to combat discrimination in that regard, particularly against those of African descent, who were rarely protected because their practices were not considered a matter of religion, but of folklore.

57. **Ms. Jahangir** (Special Rapporteur on freedom of religion or belief) said that she was encouraged by the support expressed for her mandate, as freedom of religion or belief was a core human rights issue. If that right was not preserved, other rights could easily be threatened. The relationship between Governments and religion had been discussed for many years, raising the question of how much action constituted interference and how much inaction constituted neglect.

58. While legislation had a part to play in safeguarding freedom of religion or belief, it must not be an instinctive first step. For example, legislation could be counterproductive in preventing conversion to another religion by methods that could be interpreted as unethical. While it was not for Governments to say how religion should be practised, they must not shrink from taking action when warranted, not just by enacting legislation, but by enforcing legislation. She and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance agreed that Governments must prevent impunity, especially in cases of incitement to violence.

59. Both she and her predecessor had maintained that individuals with no religion or belief must have equal rights, as the freedom to adopt a religion was paralleled by the freedom not to do so. Her talks with representatives of the Holy See, the Organization of the Islamic Conference and Buddhist high priests in Sri Lanka, as part of an ongoing effort to improve dialogue between religions, had focused not only on the issues specific to each religion, but also on encouraging more intensive interaction. Above all, that meant dialogue which involved not just religious leaders, but also the population, including those of no or indeterminate faith, and including women.

60. She had issued a press release expressing concern at the situation of Baha'is in the Islamic Republic of Iran but the improvement she had hoped to see had not materialized, with continued reports from credible sources on the authorities' attempts to identify, monitor and sometimes arrest individuals belonging to that faith. Religious minorities still suffered everywhere. In a globalized environment, where the voices of the mainstream religions were loudest, discrimination and violence against smaller religious communities were overlooked. Monitoring of religious publications was also common everywhere. She could think of one example of a total State ban on imports of religious publications, another of mandatory and time-consuming State approval for such imports, and yet another of all but a fraction of large consignments of imported publications being withheld, to prevent propagation of the beliefs concerned.

61. The balance between freedom of religion or belief and other human rights was difficult to preserve, but must be pursued, in line with article 1, paragraph 3, and article 8 of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, which defined permissible restrictions and the overall framework of human rights. While cultural and religious diversity must be upheld and celebrated, that must not involve derogating from any human rights. Strategies for combating intolerance must be global, just as patterns of discrimination were global. However, the characteristics of individual countries and regions must also be taken into account. It was impossible to deal with intolerance simply by preaching tolerance. The international community must evolve a strategy for policy, education and legislation; it must discuss how to improve dialogue and avoid being defensive about the issue of religion simply because it was sensitive. It must progress from superficially diagnosing the problem to actually treating it.

62. **Mr. Despouy** (Special Rapporteur on the independence of judges and lawyers) said that his

report to the General Assembly (A/61/384) had described his activities between November 2005 and October 2006 and indicated his future plans, which included missions to the Maldives, Cambodia, Kenya and the Islamic Republic of Iran. Three missions to Ecuador had enabled him to observe the positive changes which had taken place since the institutional crisis of 2004. Judges had been elected to its new Supreme Court of Justice in a transparent manner, with observers from national and international organizations, including the United Nations, present. Because presidential and parliamentary elections were under way, he would wait until the next session of the Human Rights Council to present a follow-up report.

63. He had placed particular emphasis on the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance as the culmination of years of negotiation. In connection with military justice in the context of the trying of civilians and serious human rights violations, he had urged States to bring their domestic legislation into line with international standards on military jurisdiction and to respect the integrity of the judicial system. He had also highlighted the joint report on the situation of detainees at Guantánamo Bay (E/CN.4/2006/120). Since its submission to the Human Rights Council, the United States Administration had adopted an act allowing secret detention, military tribunals and harsh interrogation.

64. In his report, he had described the steps which the International Criminal Court was taking to bring its first case to trial and the trials undertaken by the Extraordinary Chambers in Cambodia. Those trials would bring justice closer for the victims of human rights violations. He had reiterated his concerns about the Supreme Iraqi Criminal Tribunal trying Saddam Hussein and his former aides, calling once again for the Tribunal to operate in line with international standards or to be replaced by an international criminal tribunal with the cooperation of the United Nations.

65. Lack of confidence in justice was difficult to restore, but judicial independence was vital to democracy, to the proper functioning of State institutions and to the citizens' quality of life. Consequently, judges must not continue to be exposed to pressures and threats, including threats to their lives.

66. **Mr. Afifi** (Egypt) said that, according to paragraph 40 of the Special Rapporteur's report, Egypt's military courts were competent under the law on counter-terrorism to try civilians accused of terrorism. That was incorrect, as there were no military courts competent to try terrorism cases. Terrorism cases were tried by State Security Courts, which only dealt with cases affecting public order. They were civilian courts which preserved the access of the accused to appeal and cassation. Egypt was in the process of enacting a counter-terrorism law which was expected to enter into force shortly, superseding the use of emergency laws in terrorism cases.

67. **Mr. Llanos** (Chile) said that his delegation was concerned at the need, once again highlighted by the Special Rapporteur, to bring the use of military justice into line with international standards. It hoped that the situation would improve rapidly once the draft principles governing the administration of justice through military tribunals entered into force. Recalling that article 4 of the International Covenant on Civil and Political Rights provided for the preservation of international judicial standards in emergency situations, it wondered whether the Special Rapporteur planned to examine the issue of what judicial standards applied in such situations.

68. **Ms. Moreira** (Ecuador) thanked the Special Rapporteur for supporting the transparent reform of Ecuador's Supreme Court, and expressed the hope that any further observations he made regarding the monitoring of the situation in Ecuador would take into account the comments that had been submitted by the Ecuadorian Government.

69. It was hoped that, following elections, Ecuador's new Parliament would adopt a draft organic law on the functioning of the judiciary.

70. **Ms. Pohjankukka** (Finland), speaking on behalf of the European Union, welcomed the Special Rapporteur's focus on the specific problems faced by countries in transition with regard to the administration of justice, as well as his valuable analysis on the right to the truth.

71. Referring to the role of international organizations in facilitating the development of justice systems, she asked how the contribution of international associations of judges and magistrates might best be incorporated into international cooperation programmes.

72. Information on best practices with regard to the coordination of proceedings of courts and truth commissions with a view to preserving the independence of the judiciary would be appreciated.

73. **Mr. Ainchil** (Argentina) thanked the Special Rapporteur for acknowledging the efforts of the Argentine Government to carry out reforms that would define clearly the areas of competence of civilian and military jurisdiction. In that regard, it would be useful to have further information regarding the extent to which the independence of judges, lawyers and other members of the judiciary was affected by the use of threats, pressure and intimidation against them.

74. **Mr. Moreira** (Brazil) asked the Special Rapporteur to elaborate on the relationship between independence of the judiciary and access to justice.

75. **Mr. Cabral** (Guinea-Bissau), endorsing the statement made by the representative of Egypt, said that Guinea-Bissau welcomed the adoption by the Human Rights Council in June 2006 of the International Convention for the Protection of All Persons from Enforced Disappearance, and expressed the hope that the General Assembly would also adopt that instrument as soon as possible. It was impossible to uphold the rights of displaced persons and ensure the full independence of the judiciary and the rule of law as a whole without a reliable justice system and the financial means to support it, which in turn would inspire public confidence in that system. Justice was one of the key priorities for countries emerging from conflict situations in particular.

76. Guinea-Bissau shared the view that civilian cases should not be tried in military courts, and that that standard should be respected by the entire international community.

77. He expressed the hope that the Special Rapporteur would have access to all countries, given that he was helping those countries he visited to build confidence in their respective justice systems and in the rule of law and access to justice. In that regard, he asked whether all countries had shown support for the Special Rapporteur's activities, and whether States emerging from conflict had the necessary means to ensure the minimum level of such support. While national justice systems may differ, the administration of justice and the rule of law in all countries should be based on universal principles.

78. **Ms. Taracena Secaira** (Guatemala) wished to point out, by way of clarification, that the draft law referred to in paragraph 34 of the report, which would give military courts competence to try all offences committed by military personnel, had been presented by a single member of Congress and was an initiative for which, to date, there had been no support. Consequently, it was not expected to come before the legislature in the near future.

79. It would be interesting to learn how adoption of the International Convention on the Protection of All Persons from Forced Disappearance might enhance the work and mandate of the Special Rapporteur.

80. **Mr. Khoshnaw** (Iraq), referring to the concerns expressed in paragraph 58 of the report regarding the conformity of the proceedings of the Iraq Supreme Criminal Tribunal with international law, said that the Tribunal was subject to the authority of the Iraqi Judicial Council, which appointed independent judges to the Tribunal and presidents to the various chambers and was entirely independent of the Executive. The right to a defence was guaranteed under the Constitution. The murders of judges and lawyers reported by the Special Rapporteur were not necessarily attributable to the specific nature of the case, but rather to the prevailing situation of violence throughout Iraq. The Government was doing everything in its power to achieve security and stability by ending ongoing violence, terrorism and human rights violations, which were part of an organized campaign of intolerance that was threatening to bring about the collapse of the political process by causing clashes among the various communities. The Government hoped that the international community would support it in those efforts.

81. **Ms. Otani** (Japan), referring to paragraph 63 of the report on the Extraordinary Chambers in Cambodia, which stressed the importance of the conduct of trials in full compliance with international standards on the right to a fair, impartial and independent trial, said that it was also important to provide defence counsels with training relating to those international standards. In that regard, she asked the Special Rapporteur how the international community, including Member States and civil society, could help the Chambers to conduct trials in compliance with those standards.

82. **Ms. Borjas** (El Salvador) said that the defence of judicial independence was an essential means of ensuring a transparent system for the administration of justice and, ultimately, of ensuring peace. It would be useful to have additional information regarding access to justice, particularly among young persons.

83 **Mr. Cumberbatch Miguén** (Cuba) asked the Special Rapporteur how it was possible to ensure the independence of judges and other members of the judiciary when that independence was undermined by certain laws which, adopted by States in the name of combating terrorism, appeared to promote arbitrary detention and certain practices that were at odds with the international obligations undertaken by those States.

84. **Mr. Suárez** (Colombia), referring to the concerns expressed in paragraph 35 of the report regarding the fact that in Colombia, prosecutors in some cases referred trials that should fall within their jurisdiction to military courts or failed to claim jurisdiction, wished to clarify that conflicts of competence in such cases were resolved by the Procurator-General's Office or the Supreme Judicial Council. If a prosecutor did not have the jurisdiction to deal with a certain case, the trial would not necessarily be referred to a military court.

85. **Mr. Despouy** (Special Rapporteur on the independence of judges and lawyers), replying to questions, said that the useful clarification provided by the representative of Egypt regarding paragraph 40 of the report underlined the importance of dialogue and cooperation between Member States and Special Rapporteurs, particularly since it had drawn his attention to the fact that he had made the same error in his previous report. He took note of the observations made, and would examine the situation in detail.

86. He thanked the representative of Chile for drawing attention to the vital issue of bringing national legislation governing the judiciary into line with international standards, and in that regard underscored the importance of the future adoption by the General Assembly of the draft principles governing the administration of justice through military tribunals under consideration by the Human Rights Council.

87. In response to the question as to whether and how he would give future consideration to international standards governing the administration of justice in emergency situations, he said that the erosion of human rights and the frequent transfer of jurisdiction from ordinary courts to emergency tribunals or even military tribunals in such situations were problems that required special treatment, and that he would address them in future reports.

88. Regarding the problem of justice in countries in transition and post-conflict countries, he said that the key challenge was to combat impunity from the outset of the transition process, and that justice was one of the fundamental pillars that enabled that process to be carried forward.

89. The role of associations of judges and lawyers in international cooperation, especially during transition periods, was crucial. In particular, the role of judges as international observers in national elections provided greater reassurance to judicial authorities and inspired greater confidence in the credibility of the elections than experts or persons with a political background.

90. The experiences of South Africa and a number of Central American countries in coordinating the work of truth commissions and ordinary courts had been very encouraging. Truth commissions complemented the work of ordinary courts by providing them with vital inputs that could help to bring perpetrators of human rights violations to justice, and should therefore be studied more closely.

91. His next report would discuss the threats, pressures and intimidation to which judges and lawyers were often subject, and the need to ensure that such conditions were eliminated in order to preserve judicial independence.

92. Justice systems could not function properly unless both access to justice and independence of the judiciary were guaranteed; indeed, there were countries which had an independent judiciary, yet only a small percentage of the population had access to the courts. In such countries, defendants were more likely to be deprived of their rights than to be able to defend them before a court. Access to justice was therefore a major problem, and one which he hoped to consider in depth in his next report.

93. Responding to the comments made by the representative of Guinea-Bissau, he said that the International Convention for the Protection of All Persons from Enforced Disappearance was of preventive value even in countries where such disappearances did not occur.

94. Regarding country visits, he said that, while many countries welcomed his work in the field and had been very cooperative, those that were experiencing the greatest difficulties and to which he felt he could make a special contribution often responded less favourably. He therefore urged those countries to issue invitations to the Special Rapporteur.

95. Referring to the Iraq Supreme Criminal Tribunal, he said that despite the prevailing violence in Iraq and its effect on the proceedings of the Tribunal, it was crucial to show Iraq and the world that Saddam Hussein would be adequately tried for his terrible crimes, that impunity would not be tolerated and that the Tribunal was acting in accordance with the principles of international law.

96. He was encouraged by the question raised by the representative of Japan, and expressed the hope that the international community would support all actors participating in the trials conducted by the Extraordinary Chambers in Cambodia.

97. Responding to the comments made by the representative of Cuba, he said that counter-terrorist laws affected not only the rights of detainees but all rights, such as the right to demonstrate, the right to strike and freedom of expression.

98. The clarifications provided by the representative of Colombia illustrated the usefulness of interactive dialogue between Member States and the Special Rapporteur in identifying reporting errors and clarifying information on individual countries.

*The meeting rose at 6.15 p.m.*

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## Third Committee

**Summary record of the 29th meeting**
Held at Headquarters, New York, on Wednesday, 25 October 2006, at 10 a.m.

*Chairman*: Mr. Rachkov (Vice-Chairman) ..... (Belarus)
*later*: Mr. Al Bayati (Chairman) ..... (Iraq)

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Agenda item 67: Promotion and protection of human rights (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*)

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*In the absence of Mr. Al Bayati (Iraq), Mr. Rachkov (Belarus), Vice-Chairman, took the Chair.*

*The meeting was called to order at 10.10 a.m.*

**Agenda item 67: Promotion and protection of human rights** (*continued*) (A/61/36, 97, 220 and 280)

**(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms** (*continued*) (A/61/211, 267, 281, 287, 289, 306, 311, 312, 324, 325, 338, 340, 348, 352, 353, 384, 464, 465, 476, 506 and 513)

**(c) Human rights situations and reports of special rapporteurs and representatives** (*continued*) (A/61/276, 349, 360, 369 and Corr.1, 374, 469, 470, 475, 489, 504 and 526)

1. **Mr. Scheinin** (Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism), introducing his report (A/61/267), said that there was growing support for the position that human rights did not compromise the fight against terrorism, but rather, were a cornerstone of any successful strategy against terrorism, an approach reflected in the Global Counter-Terrorism Strategy recently adopted by the General Assembly in resolution 60/288. Its Plan of Action contained as its fourth main pillar measures to ensure respect for human rights and the rule of law as the basis of the fight against terrorism. Human rights also figured as a component in all the other pillars, especially the first pillar on measures to address the conditions conducive to the spread of terrorism. Violations of human rights, ethnic and religious discrimination, political exclusion and socio-economic marginalization were identified among such conditions; it was emphasized, however, that none of those conditions could justify acts of terrorism, which were morally and legally inexcusable, whatever the soil from which they grew and whatever cause they claimed to further.

2. Besides participating in the Secretary-General's Counter-Terrorism Implementation Task Force, he had had contacts with other relevant bodies in the United Nations system and regional associations.

3. The main theme of his report was the impact of counter-terrorism measures on the right to freedom of association and peaceful assembly. The issue of listing and de-listing of terrorist groups was addressed in that context. The rights of peaceful assembly and freedom of association were protected by international treaties, including articles 21 and 22 of the International Covenant on Civil and Political Rights. Those rights could be seen as a platform for the exercise of other rights, including the right to freedom of expression, cultural rights and the right to political participation. They were also crucial to the work of human rights defenders and for the creation of non-governmental organizations and political parties. Nevertheless, associations and organizations were sometimes used as a means to carry out terrorist acts and transfer or use funds for terrorism.

4. He called for increased attention to those rights in the context of ensuring that counter-terrorism measures conformed to human rights standards. It was his position that States should not resort to derogation from their obligations in that area, and that limitation measures provided by the Covenant were sufficient in fighting terrorism. Such limitations must be demonstrated to be necessary and proportionate, and subject to judicial safeguards. In order to clarify the applicable legal standards, he would recommend that the Human Rights Committee should adopt a general comment on the rights to freedom of association and to peaceful assembly.

5. As to the listing and de-listing of entities as part of the sanctions regime against terrorism, he once again emphasized the need for clear and precise definitions of terrorism and terrorist acts on the international and national level. Further, listing of entities as terrorist should be a temporary measure, in order not to amount to a criminal sanction, and entities so listed must have recourse to adequate safeguards, including judicial review. Sanctions regimes that incorporated human rights guarantees were in the long run more efficient tools against terrorism than arrangements falling short of international standards.

6. His mandate also encompassed proactive and positive dimensions, such as identification, compilation and dissemination of best practices in the fight against terrorism. He regretted that broad support of Governments for his mandate did not always translate into rapid responses to his communications or invitations to visit a country. He thus wished to thank the Government of Turkey for the exemplary manner in which it had facilitated his mission in February 2006.

7. The thematic sections of his forthcoming report to the Human Rights Council would deal with racial or ethnic profiling in the context of countering terrorism, and with suicide attacks as a specific challenge. In the current world order, preventing and combating terrorism continued to be a priority for all States. In response to that threat, many States had introduced new legislation or had amended existing legislation, and the implementation of some of those laws might indeed violate the rule of law and undermine human rights. Secret places of detention, rendition flights, racial profiling and the targeting of minorities, refugees and asylum-seekers were just a few examples of the negative impact of counter-terrorism measures on human rights. In addition, fair-trial standards were under threat in many parts of the world. He asked Governments, at a time of continued uncertainty, to welcome the proactive and cooperative elements of his mandate in order to work together to identify effective counter-terrorism measures which reinforced and promoted human rights of all persons, including the victims of terrorism.

8. **Mr. Tornudd** (Finland), speaking on behalf of the European Union, noted that human rights defenders had faced difficulties regarding freedom of assembly in connection with counter-terrorism measures, and asked if there were any plans for joint efforts with the Special Representative of the Secretary-General on the situation of human rights defenders. With regard to the registration or listing of individuals and groups by sanctions committees, international provisions to allow such groups to contest their inclusion did not yet exist, and he wondered if the Special Rapporteur would contribute to the work on guidelines in that area being done by the Al-Qaida and Taliban Sanctions Committee. His comments on national systems for judicial review of such listings and best practices would be welcome.

9. **Ms. Fontana** (Switzerland) said that her delegation shared the concerns expressed regarding potential infringement of rights through listing and de-listing of individuals and groups, and questioned whether listing was truly provisional, as the listings seemed to continue indefinitely. Particularly in cases involving freezing of assets, that could amount to confiscation. She would like to hear his views on the format United Nations mechanisms in that area should follow.

10. **Ms. de Pirro** (United States of America) said that, while her delegation agreed that a strong response to those who committed acts of terrorist violence was imperative, that response must also respect the rule of law. It noted with concern actions by some countries to justify repressive internal measures on the grounds of combating terrorism. However, her delegation wondered whether certain areas of action the Special Rapporteur suggested were sufficiently central to his mandate to justify spending precious time and resources on them. For example, in undertaking to develop a single definition of terrorism, it would be difficult to avoid a rehash of the thousands of hours of debate that had impeded other efforts to develop a definition. Another example was the exploration of "root causes", which, while very important, would be a distraction from the heart of the mandate, and could lead to a loss of focus.

11. **Mr. Cumberbatch Miguén** (Cuba) asked for more information on the elements to be included in the report to the Human Rights Council on ethnic profiling and on the criteria used to analyse laws restricting human rights. He would also like to know more about the denial of bilateral cooperation in countering terrorism.

12. **Mr. Aksen** (Turkey), on the subject of root causes of terrorism, asked how to avoid crossing the thin line between determining root causes and making excuses for terrorism.

13. **Mr. Babadoudou** (Benin) said that he was concerned at the dimension of the mandate, which appeared to call the entire counter-terrorism system into question. He would like to know how the failure to define terrorism affected the work of the Special Rapporteur.

14. **Ms. Feller** (Mexico) said that her delegation would like to know how anti-terrorism measures had impacted religious, ethnic and racial minorities and whether he had discovered any best practices that could improve the situation. She would also like to hear more about any experiences in cooperation between civil society and government.

15. **Mr. Kim** Pil-woo (Republic of Korea) said that his delegation agreed with the Special Rapporteur on the need for a clear definition of terrorism, as the lack of a definition could allow some Governments to justify measures that were detrimental to human rights

as being necessary to combat terrorism. Thus the term should be given a specific and concrete meaning.

16. **Mr. Scheinin** (Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism), in reply to the representative of Finland, said that he was cooperating with the mandate of the Special Representative of the Secretary-General on human rights defenders both within the Office of the High Commissioner for Human Rights and personally, as their mandates were complementary. Both his mandate and that of the Al-Qaida and Taliban Sanctions Committee were represented on the Counter-Terrorism Implementation Task Force and they cooperated regularly. With regard to questions on listing and de-listing of individuals and groups raised by the representative of Switzerland, observing the principle that such listing was temporary would help to improve the system, as that would require a review of the lists at regular intervals, perhaps every 6 to 12 months. Provision for individual review would not necessarily be judicial on the international level.

17. On the subject of defining terrorism and root causes, the primary focus of his mandate was indeed on the impact of counter-terrorism measures on individuals, but a broader approach was also useful. An exploration of conditions conducive to the spread of terrorism suggested elements of prevention. The lack of an agreed definition of terrorism, furthermore, was one of the reasons why the human rights issues had arisen. As long as countries could define terrorism however they wished, abuses could occur. In his view, a definition should be based on the choice of tactics, including violence against innocent bystanders.

18. Responding to the representative of Cuba, he said that his report to the Human Rights Council on profiling would cover its foundations, initial elements and normative criteria under international human rights law, the International Convention on the Elimination of All Forms of Racial Discrimination and other non-discrimination procedures. He would also suggest a possible model for profiling based on the conduct rather than the characteristics of an individual.

19. In reply to the representative of Turkey, he said long-term efforts at prevention must result from studying the root causes of terrorism, and a clear definition would help to prevent them from being used as a justification for such acts.

20. He assured the representative of Benin that his intention was not to challenge the sanctions regime as a whole, but to improve an imperfect system through such tactics as "smart" sanctions. He also pointed out that, after the adoption of Security Council resolution 1373 (2001), on countering terrorism, all resolutions had contained a provision that any measures taken by Member States must comply with human rights norms.

21. A definition of terrorism was important in avoiding abuse of minorities and indigenous groups, as the representative of Mexico had noted. In his view, indigenous movements would not quality as terrorist groups unless they targeted civilians.

22. **Ms. Ertürk** (Special Rapporteur on violence against women, its causes and consequences) said that her last thematic report to the Commission on Human Rights (E/CN.4/2006/61 and Add.2-5), which she had also presented to the Human Rights Council, had focused on the potential of the due diligence standard as a tool for the implementation of human rights, including women's right to a life free from violence. Conventionally, violence against women had been interpreted largely within a welfare/humanitarian context. There had been less systematic work done on the more general obligation of preventing violence, particularly by supporting women's empowerment and eradicating patriarchal norms that subordinated women. Owing to the exclusively State-centric nature of the due diligence obligation and changing power dynamics, the challenges posed for State authorities, as well as new questions they raised about the accountability of non-State actors, had been largely overlooked.

23. From a human rights perspective, the current challenge in combating violence against women was to ensure that the root causes and consequences were tackled at all levels, from the home to the transnational arena. Applying a human rights perspective had challenged the taken-for-granted aspects of everyday life. As a result, the focus had shifted from the earlier victimization-oriented approach to one of empowerment. A life free of violence was accepted as an entitlement rather than merely a humanitarian concern. Identifying the rights bearer also brought with it a focus on the duty bearer with respect to responding to violence. In addition to the focus on empowerment, the cultural negotiation approach was also effective.

24. There was a need to broaden the understanding of the due diligence obligation beyond individual States. That might require new mechanisms and the adoption of legally binding international codes of conduct for non-State actors with a transnational reach. In responding to transnational challenges such as the trafficking of women or the regulation of migration and refugees, the community of States needed to work together and develop innovative transnational strategies.

25. In the course of 2006, she had conducted missions to Turkey, Sweden and the Netherlands; she would report on those missions in 2007. Her reports concerning her missions to the Russian Federation, the Islamic Republic of Iran, Mexico and Afghanistan were contained in documents E/CN.4/2006/61/Add.2-5.

26. In the Russian Federation, which she had visited in December 2004, the political and economic transition had disproportionately burdened women. The revival of archaic notions of gender relations seemed to be serving to justify gender inequality and widespread violence against women. There were continuing reports of acts of violence against women in the Chechen Republic. The Russian Federation had a historical legacy in the promotion of women's rights and a well-developed State tradition which would enable it to address violence against women if the Government were to prioritize women's rights. The creation, in June 2006, of an Inter-Ministerial Commission on the Promotion of Equality of Men and Women was a promising development.

27. Early in 2005, she had visited the Islamic Republic of Iran. Although the principle of equality was enshrined in the Constitution, and women's access to education was commendable, gender inequality was a salient feature of society which was upheld and perpetuated by patriarchal values and attitudes and State-promoted institutional structures based on gender-biased and hard-line interpretations of religious principles. Certain recent amendments to the law concerning child custody and the minimum age of marriage were promising steps. However, those needed to be followed by a comprehensive review and reform of discriminatory legal provisions. Corporal punishments such as stoning and flogging must be outlawed; in the meantime, she had urged the authorities to uphold the moratorium on execution by stoning, as the courts continued to sentence women to death by stoning.

28. In February 2005, she had visited Mexico, where the high levels of violence against women were both a consequence and a symptom of widespread gender discrimination and inequality. The Government of Mexico was party to the major human rights treaties that provided women with protection against violence and had taken important steps to fulfil those obligations. However, it needed to take drastic measures to address the inadequate coordination between federal and state levels with regard to violence against women and to make the police and justice sectors more responsive. The problem had become particularly visible in the State of Chihuahua, where between 1993 and 2005, almost 400 women had been murdered in Ciudad Juárez alone.

29. In July 2005, she had visited Afghanistan, where severe violence against women was pervasive. Underlying factors included the hard-line patriarchal gender order, the erosion of protective social mechanisms, a weak judiciary, a lack of law enforcement, and widespread discriminatory practices combined with poverty and insecurity. Women and girls must be protected from violence as a matter of urgency, especially by ending child and forced marriages and providing safe houses for women and girls who had escaped from violence and had no other alternatives.

30. Regional consultations with non-governmental organizations had become an integral aspect of her work. In 2006, she had attended a regional consultation organized by the Asia Pacific Forum on Women, Law and Development, in Ulaanbaatar, Mongolia. She encouraged civil society actors to continue to organize and participate in such constructive initiatives, and she urged Member States to provide funds for that purpose. The consultation had dealt with the topic of her next thematic report to the Human Rights Council, namely, the intersection of culture-based discourses and violence against women. The challenge was to respect and prize diverse cultures while developing common strategies to resist oppressive practices in the name of culture.

31. The mission to Algeria which she had scheduled for January 2006 had been postponed on short notice at the request of the Government. However, she had received assurances that the mission could take place in early 2007. She had renewed her request to visit the Democratic Republic of the Congo and had also requested to carry out official missions to Ghana and

Saudi Arabia in 2007. In addition, she had taken up an invitation from the Government of Zimbabwe.

32. **Mr. Tornudd** (Finland), speaking on behalf of the European Union, said that the European Union was submitting a draft resolution on the Secretary-General's in-depth study on all forms of violence against women (A/61/122/Add.1). He would be interested to hear the views of the Special Rapporteur on that matter. In the study, States and the United Nations were called on to strengthen the knowledge base on all forms of violence against women. He asked what such a database should look like.

33. He would also like to hear the Special Rapporteur's views on how multinational corporations and the international community could contribute towards making transformative changes in the fight to eliminate violence against women. Finally, how could the cultural-negotiation approach best be organized in order to touch upon the private sphere, including through interventions targeting men?

34. **Mr. Aksen** (Turkey) asked the Special Rapporteur to elaborate on the concept of cultural negotiation and explain what elements it might include. Also, he would like to hear specific proposals on how different bodies and mechanisms could cooperate in the struggle to eliminate violence against women and empower them.

35. **Mr. Zamani** (Islamic Republic of Iran) pointed out that the entire system of justice in his country was based on the Constitution and derived from the Islamic sharia, which enjoyed the support of the people. It was not useful to analyse the situation in the Islamic Republic or in any other society without taking into consideration its internationally recognized multiculturalism and diversity. His Government would bear that in mind in considering the recommendation of the Special Rapporteur.

36. **Ms. Sapag** (Chile) asked the Special Rapporteur whether she had received any feedback from the United Nations International Research and Training Institute for the Advancement of Women (INSTRAW) concerning its research in Mexico and other countries in Latin America. She would also appreciate her views and recommendations on shelters or safe houses, inasmuch as her Government was undertaking to establish such facilities in different regions of the country.

37. **Ms. Walker** (Canada) stressed the importance of effective data collection and analysis. Considering that gender-based violence was often hidden from public view, she would like to know the most effective ways to collect and analyse data on that issue.

38. **Ms. Feller** (Mexico) asked what steps should be taken to develop statistics and indicators to monitor interventions on violence against women. In particular, the systematic murder of women in Mexico and other countries was a growing problem that had not been sufficiently discussed at the multilateral level.

39. **Ms. Dlamini** (Swaziland) asked what could be done to involve men in combating violence against women.

40. *Mr. Al Bayati (Chairman) took the Chair.*

41. **Ms. Thornton** (New Zealand) said that States required guidance on how to implement the due diligence standard, given the potential scope of the concept and role of non-State actors. How could States best use the current opportunity provided by the Special Rapporteur's report to advance the elimination of violence against women? What should be the focus? Also, bearing in mind that the General Assembly would shortly adopt a comprehensive convention on the rights of persons with disabilities, she would appreciate any comments the Special Rapporteur might have on the situation of women with disabilities.

42. **Mr. Alakhder** (Libyan Arab Jamahiriya) asked whether the mandate of the Special Rapporteur covered cases of violence against women in occupied territories. Was such violence important? Was the crime of rape included as a crime against women in territories under foreign occupation?

43. **Ms. Kalamorna** (Zambia), noting that neither legislation nor policies had succeeded in reducing violence against women, asked what was the best approach or strategy to follow in order to combat acts of violence.

44. **Mr. Cumberbatch Miguén** (Cuba) stressed the importance of repealing discriminatory laws and of changing cultural practices that promoted violence against women. Efforts to empower women and improve gender equality had not sufficiently taken into account the need to promote the economic, social and cultural rights of women. He wondered what could be done to address that aspect.

45. **Ms. Ertürk** (Special Rapporteur on violence against women, its causes and consequences), replying

to questions, said that violence against women was not an isolated issue. It was related to the overall status of women. Therefore, combating violence against women would require the full implementation of the Beijing Platform for Action.

46. The issue of violence was difficult to capture in statistics. She was conducting a study on how best to document violence against women, which would be shared with the international community when it was ready. INSTRAW had the potential to serve as a knowledge clearing house within the United Nations on gender issues.

47. Regarding the role of men, change should not be limited to the rehabilitation of violent men. The problem was not violent men, but gender ideology. Many problems experienced by women were caused by taboos regarded as part of the culture. It was a disservice to a culture to assume that the taboos in question were inherently part of it. Leaders had the power to either empower patriarchy or empower rights. They had the responsibility to urge those who engaged in violence to question themselves.

48. In order to link the work of the Special Rapporteur with the Secretary-General's study on violence against women, there was a proposal for the Special Rapporteur to report to the Committee on the Status of Women. There was interest within that body in creating a mandate to study discriminatory laws.

49. In reference to the question of Islamic sharia, a broad approach was the most effective one, since violence against women was a universal problem. Particular religious texts were not being challenged. The question was how to handle such texts in a way that provided maximum protection for women. Practices claiming the same textual sources were often implemented differently. Countries dealt with the issue by reinterpreting texts.

50. There was still a great deal to be done in the Islamic Republic of Iran. The situation of women there had changed, but legal provisions needed to reflect that.

51. The issues of femicide in Mexico and other countries would be addressed by the work on indicators.

52. Violence against women in territories under occupation was most certainly a human rights violation. Rape had recently been declared a crime against humanity.

53. The problems associated with disabilities emanated not from the disabled but from societies which did not provide infrastructure for them. It was necessary to design societies which took into account alternative needs.

54. **Mr. Mudho** (Independent expert on the effects of economic reform policies and foreign debt on the full enjoyment of all human rights), introducing his report (A/61/464), said that the Multilateral Debt Relief Initiative would provide a benefit of US$ 50 billion, spread over a period of 40 years. The amount was too small to have a measurable impact on the achievement of the Millennium Development Goals. So far, only 20 countries qualified for the debt cancellation, while 20 more countries might still meet the admission criteria in the future. The Initiative was limited to three multilateral banks; other banks were not participating, owing to the failure of donors to commit resources to compensate the banks for debt relief.

55. It was important that debt relief should supplement existing and future development aid so that the positive effects were not offset by a reduction in traditional cooperation programmes. In lending to developing countries, the principle of shared responsibility of lenders and borrowers should be recognized. Creditors should take the debt situation of poor countries into account and adapt the mix of loans and grants provided accordingly. Each country bore primary responsibility for its own development and for the full realization of human rights. Millennium Development Goal No. 8 on global partnership for development, which called for a rule-based trading and financial system, was of particular importance.

56. The general guidelines which he was elaborating pursuant to Commission on Human Rights resolution 2005/19 were intended to be followed by States and by private and public, national and international financial institutions to ensure that compliance with commitments did not undermine the realization of fundamental economic, social and cultural rights. Since the elaboration of the guidelines would require further reflection on the sustainable level of debt for a country, an extension of the time frame for the elaboration of the guidelines had been recommended.

*The meeting rose at 12.25 p.m.*

United Nations A/C.3/61/SR.30

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## Third Committee

**Summary record of the 30th meeting**
Held at Headquarters, New York, on Wednesday, 25 October 2006, at 3 p.m.

*Chairman*: Mr. Al Bayati ..... (Iraq)

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*The meeting was called to order at 3.10 p.m.*

**Agenda item 61: Advancement of women** (*continued*)

**(a) Advancement of women** (*continued*) (A/C.3/61/L.11)

*Draft resolution A/C.3/61/L.11: Trafficking in women and girls*

1. **Ms. Banzon-Abalos** (Philippines) introduced the draft resolution on behalf of the original sponsors and also Afghanistan, Angola, Azerbaijan, Belarus, Benin, Bolivia, Burkina Faso, the Central African Republic, Chile, Ecuador, Kyrgyzstan, Liberia, Monaco, Morocco, Nigeria, Panama, Senegal, Swaziland, Thailand and Togo. She said that of the estimated one million persons trafficked in the world, a staggering majority were women and girls, most of whom were trafficked for the sex industry. An important manifestation of the international community's commitment to combat human trafficking was the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. However, that Protocol failed to espouse a real gender perspective that went beyond the mere inclusion of the phrase "especially women and children".

2. The current draft resolution sought to fill that gap. In the light of the Beijing Platform for Action and the recent High-level Dialogue on International Migration and Development, the international community could not afford to diminish the strategic importance of a gender approach to the global fight against trafficking in persons. The draft resolution would emphasize, inter alia, the need for a solid human rights foundation for anti-trafficking efforts, the need to address the factors underlying trafficking, the demand side of the problem, the importance of gender- and child-sensitive data collection, the responsible and non-discriminatory use of information technology and the need to address trafficking which occurred during emergency situations.

**Agenda item 67: Promotion and protection of human rights** (*continued*)

**(a) Implementation of human rights instruments** (*continued*) (A/C.3/61/L.15)

*Draft resolution A/C.3/61/L.15: Torture and other cruel, inhuman or degrading treatment or punishment*

3. **Mr. Rehfeld** (Denmark) introduced the draft resolution on behalf of the original sponsors and Argentina, Armenia, Azerbaijan, Benin, Bolivia, Brazil, Bulgaria, Chile, Cyprus, Iceland, Liberia, Lithuania, Monaco, Morocco, Nigeria, Panama, Paraguay, Portugal, the Republic of Korea, Turkey, the United States of America and Uruguay. He said that in paragraph 26 the words "noting the upcoming entry into force of the Optional Protocol to the Convention" should be deleted.

4. The draft resolution recalled that freedom from torture and other cruel, inhuman or degrading treatment or punishment was a non-derogable right that must be protected under all circumstances. It condemned all forms of torture and other cruel, inhuman or degrading treatment or punishment and underlined that such acts would remain prohibited at any time and in any place whatsoever. Furthermore, it emphasized the obligations of States to act in accordance with the principle of non-refoulement. The draft resolution focused on the important work done by the Committee against Torture and the Special Rapporteur on torture as well as the persistent efforts by non-governmental organizations to combat torture. It also acknowledged the entry into force of the Optional Protocol to the Convention.

**Agenda item 67: Promotion and protection of human rights** (*continued*)

**(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms** (*continued*)

**(c) Human rights situations and reports of special rapporteurs and representatives** (*continued*) (A/61/306)

5. **Mr. Ziegler** (Special Rapporteur on the right to food), introducing his interim report (A/61/306), said that, despite the promises to eradicate hunger made at the 1996 World Food Summit and in the Millennium Development Goals, global hunger continued to rise. More than 850 million people suffered from hunger and every day in 2005, 24,000 persons had died of hunger. According to the Food and Agriculture Organization of the United Nations (FAO), there was potentially enough food to feed twice the world's

current population. Therefore, the deaths of persons from hunger were tantamount to wilful killing.

6. There had been some positive developments with respect to the right to food, however, including the tax introduced by France and supported by 15 other States on airline tickets to fund efforts to combat HIV/AIDS as well as hunger. That initiative had yielded excellent results. Brazil had succeeded in the previous four years in reversing undernourishment, thanks to national measures to provide food assistance, increase school enrolment and improve infrastructure. In Guatemala, too, clear progress in combating malnutrition had also been made including a decline in infant mortality owing to undernourishment, thanks to such measures as food security legislation. India, too, had made tremendous strides in ensuring the right to food through its public food-distribution system and other means.

7. Yet there were also situations of serious concern with respect to the fulfilment of the right to food, including in the Horn of Africa and the countries of the Sahel.

8. In Lebanon, which he had visited following the recent war between Hizbollah and Israel, the agricultural and fishing sector had been greatly affected and essential infrastructure destroyed, with a long-term impact on livelihoods and access to food and water. He also drew attention to the existence of more than 1 million anti-personnel mines left by Israeli forces, and the Israeli Government's refusal to provide maps of the mines in order to permit demining of farmlands.

9. In Darfur, the security situation remained volatile: more than 2 million people had been displaced and an estimated 500,000 people had died of hunger since 2003. The Human Rights Council was paralysed with respect to that situation. He hoped that his request to visit the region would be granted by the Sudanese Government. Because of the security situation, the World Food Programme (WFP) was unable to reach some 320,000 persons in need. The security of humanitarian convoys must be ensured to enable food assistance to reach them.

10. Thousands of Africans in search of income to feed their villages continued to seek refuge in Europe, often risking their lives; some of them had fled areas threatened by soil erosion and destruction of the ecosystem. Indeed, half of the 850 million people he had cited earlier lived in drylands in the process of destruction. Despite commemoration of the International Year of Deserts and Desertification, 2006, and the United Nations Convention to Combat Desertification, financial resources to remedy the situation were lacking. As a result, environmental refugees had flooded into the urban slums of South Asia and Africa.

11. Concerning international trade, he drew attention to the Doha trade negotiations within the World Trade Organization (WTO), which should have resulted in the elimination of export subsidies provided by industrialized countries to their farmers. The Doha Round, however, had been a complete failure. Export subsidies given by the countries of the European Union, the United States, Canada and others continued, which meant that fruits and vegetables from industrialized countries cost one half of the price of local produce in Africa, for example. Millions of African and Latin American peasant farmers had no markets to sell their crops and could not earn enough to feed their families. Such a situation constituted a serious violation of the right to food. Dumping policies were destroying African agriculture and causing hunger and undernourishment. States had a transnational responsibility under the International Covenant on Economic, Social and Cultural Rights to abandon such policies. Respect for the right to food was the sole solution for overcoming the scourge of hunger.

12. **Mr. Makanga** (Gabon) said that the interim report of the Special Rapporteur (A/61/306) had provided an interesting overview of hunger throughout the world. He stressed that hunger was only one facet of poverty and that poverty eradication could not be effectively tackled unless hunger was also addressed. In the light of important French and Brazilian initiatives, he asked what could be done at the global level to ensure that all countries took effective measures to ensure the provision of food to their inhabitants.

13. **Mr. Afifi** (Egypt) said it was no secret that man was born free but was everywhere in chains. His delegation would like to hear the Special Rapporteur's views on the implementation of the right to food in the occupied Palestinian territories, and his ideas on what needed to be done.

14. **Ms. Moreira** (Ecuador) commended the Special Rapporteur for raising several topics linking transnational responsibility to the right to food. She asked what impact the developing countries' external debt had on the exercise of that right. Her delegation also agreed

with the need for the General Assembly to adopt forthwith the Declaration on the Right of Indigenous Peoples, adopted by the Human Rights Council in June, in the light of the Special Rapporteur's statement in his report (A/61/306, para. 43) that the Declaration went beyond International Labour Organization (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries and that even if it was not a treaty, it was a new tool for indigenous claims to rights, including the right to food.

15. **Mr. Pato** (Togo) said the international community displayed a degree of cynicism and hypocrisy regarding the paradox of widespread malnutrition in some countries and gross overindulgence in others. Violation of the right to food was a human rights violation, but less widely condemned than the more dramatic variety. Since the problem, discussed in the Third Committee year after year, appeared to become increasingly complicated, could the Special Rapporteur suggest some way of resolving that dichotomy?

16. **Mr. Kim** Yong Ho (Democratic People's Republic of Korea) said the report of the Special Rapporteur (A/61/306, para. 22) did not accurately reflect the actual situation and new developments in his country. While the Government did not claim to have fully solved the food problem, it was ensuring food security, with the help of the international community, which, he would have thought would commend his country's reliance on its own capacity rather than on outside assistance. Strangely, the Special Rapporteur had made no mention of the root cause of obstacles to enjoyment of the right to food, one of which was the economic and financial embargo imposed on his country.

17. The Special Rapporteur would be well advised to base his conclusions and recommendations on a fair and balanced analysis of the challenges, instead of which he had limited his comments to the failure of the Government to solve the food problem, although it had improved food security through equal distribution of food to the entire population. Under General Assembly resolution 60/165, each country had primary responsibility for the implementation of national right-to-food programmes and strategies; therefore, blind criticism of Government policy was tantamount to interference in the internal affairs of a State. Rather than sincerely wishing to help realize the population's right to food, the Special Rapporteur had sided with hostile forces endeavouring to isolate the country and its people.

18. **Mr. Alakhder** (Libyan Arab Jamahiriya) said that, since food depended largely on clean water, sanitation and unpolluted air, he hoped the situation would not deteriorate to such an extent that it became necessary to appoint a special rapporteur on the right to air. He asked if any tangible progress had been achieved and what concrete measures the international community had taken within the framework of the United Nations, especially with regard to food delivery to the victims of recent natural disasters.

19. **Mr. Salih** (Sudan) claimed that many of the statistics cited in the Special Rapporteur's report (A/61/306, para. 19) in connection with the Sudan were false. The Sudanese authorities were committed to protecting food security and had provided assistance to 200,000 people in the area. Although the Special Rapporteur claimed not to know why the conflict was continuing and that he would not express political opinions, his delegation was anxious to hear what action he would recommend for dealing with the militia's rejection of the Darfur Peace Agreement which his Government had signed in good faith. It was the rebel factions, not the Government, which prevented food from reaching those in need of it.

20. **Ms. Rasheed** (Observer for Palestine) said that in his 2004 report (A/59/385) the Special Rapporteur had painted a dismal picture of the food situation in the Gaza Strip under Israeli occupation, a situation that had worsened immeasurably, with food insecurity among the Palestinian people skyrocketing at an alarming rate, owing to the Israeli occupying forces' encaging of Gaza. She asked how the international community, and the United Nations in particular, could prevent further exacerbation of the situation and how the well-being of the civilian population under occupation, particularly their right to food, could be protected.

21. **Mr. Bhakta** (India) expressed his delegation's satisfaction at the visit of the Special Rapporteur to India in 2005, where he had witnessed its efforts to ensure respect for human rights, including the right to food, and at his comments on ways of improving the exercise of that right in the context of the right to development. In addition to the Indian Supreme Court's recognition of the justiciability of the right to food, the Government had also put the National Rural Guarantee Programme into operation. He would like the Special Rapporteur to say what impact he thought the failure of the WTO Doha Round was having on the

realization of the right to food in most developing countries.

22. **Ms. Maierá** (Brazil), noting the growing number of people suffering from hunger throughout the world, reaffirmed her country's commitment to protecting the right to food and thanked the Special Rapporteur for his positive remarks regarding its efforts to combat hunger and poverty and promote development. She agreed that hunger was mainly a problem of food distribution rather than food production and was linked to the inequalities of agriculture and international trade.

23. As the representative of India had said, the collapse of the Doha Round had postponed the enjoyment of the right to food in the developing countries. What mechanism could be created to call the attention of international public opinion to the matter and how could it be used to influence the policies of developed countries? Since to attack hunger alone could yield only palliative results, what type of structure could tackle all hunger-related ills in a comprehensive, integrated manner and so make food provision sustainable?

24. **Mr. Nawal** (Lebanon) thanked the Special Rapporteur for his honest version of the tragedy inflicted by Israel on Lebanese civilians and said he was welcome to visit Lebanon whenever it was convenient. In addition to its banana plantations and farmlands, Israel had also bombed Lebanon's grain silos, as well as its oil reserves, sparking an international ecological crisis that had severely damaged the local economy, especially for fishermen. Had the Special Rapporteur's investigations shown that the Israeli bombings had been intentional and systematic?

25. **Ms. Thomas Ramírez** (Cuba) noted that millions of lives were lost each year not because of lack of food production, but because the social exclusion and political marginalization of certain groups resulted in unequal access to food. Since promotion of the right to food was a matter of national and international responsibility, she would like to know what new actions could be taken to strengthen the fulfilment of that responsibility, and what international action could be taken to support rural development and small-scale agriculture in developing countries, especially in the light of the failure of the Doha Round.

26. **Ms. Leikas** (Finland), speaking on behalf of the European Union, said it was interested in the Ethiopian experience of small-scale water-harvesting for rehabilitation of arid lands (A/61/306, para. 32) and would like the Special Rapporteur to elaborate on that experience and on other key elements for improving the right to food in arid regions. In view of Guatemala's 2005 National Law on Food Security, which, inter alia, recommended strengthening the Office of the Ombudsman to monitor the protection and realization of the right to food, how did the Special Rapporteur envisage such a contribution from such offices and from national human rights organizations? She also wished to know what action the international community could take to stop discrimination with regard to food — for instance, among indigenous women and women suffering from HIV/AIDS.

27. **Ms. Diallo** (Mali) said that the Special Rapporteur had addressed in his report nearly all the factors that made her country vulnerable — such as subsidies and climatic factors — with the notable exception of the locust invasions that were depleting its resources. In a country whose economy was 80 per cent agriculture-based, plagues of locusts, coupled with the lack of rainfall for many years, were placing enormous strains on the country's economy and merited a mention in the report.

28. **Mr. Zamani** (Islamic Republic of Iran) asked whether the Special Rapporteur thought that a special framework for the implementation of his role would achieve better results and overcome the challenges mentioned in his report.

29. **Ms. Baroudi** (Morocco), calling attention to the link between desertification, soil degradation and food in Africa, on the one hand, and long-criticized traditional agricultural practices on the other, pointed out that the modern agricultural techniques imposed had not always been successful. She wondered whether the Special Rapporteur could elaborate on that problem and suggest a way out of the impasse.

30. **Ms. Abdelhak** (Algeria) asked whether the Special Rapporteur had thought of compiling his experiences derived from the new developments taking place in Brazil, Guatemala and India regarding hunger and malnutrition so that they could serve as models for other countries (A/61/306, sect. II). Given the Special Rapporteur's statement that ecological rights should be respected both within and outside national borders, she wondered whether, in the light of transnational responsibility for the depletion of ecosystems by

overexploitation of natural resources, particularly by Western countries, a regular review of the right to food by the Human Rights Council might not provide the ideal opportunity for noting violations of such rights and taking appropriate action.

31. **Mr. Israeli** (Israel) said his delegation was dismayed at several aspects of the Special Rapporteur's report to the Human Rights Council on his recent mission to Lebanon (A/HRC/2/8) and felt compelled to call attention to his calculated decision to omit facts that did not support his own agenda. For instance, the report did not mention Hizbollah's massive rocket attack into Israel, part of the aggression that had initiated the recent conflict. That omission was particularly glaring in section II, entitled "General context", and spoke volumes for the Special Rapporteur's agenda and alleged impartiality. The report clearly legitimized Hizbollah terrorists by characterizing them as the armed forces of the Lebanese political party, in direct contradiction of Security Council resolutions 1559 (2004) and 1701 (2006), in which Hizbollah had been requested to disarm and the Government of Lebanon to extend its control to all of its territory.

32. His delegation also noted the deliberate misrepresentation of the situation regarding humanitarian access in Lebanon during the conflict. The Special Rapporteur had not acknowledged the establishment of the special office set up in Israel to act as a focal point for humanitarian coordination between the relevant Israeli authorities and the Office for the Coordination of Humanitarian Affairs (OCHA) and the International Committee of the Red Cross. According to OCHA, 80 per cent of all humanitarian convoys had been coordinated, with Israeli approval. United Nations agencies and humanitarian partners had delivered significant humanitarian aid to conflict-affected areas. Even as he spoke, the World Food Programme was pulling out of Lebanon because, in its own words, "the emergency is over". The Special Rapporteur had regrettably chosen to disregard those facts, as well as various United Nations assessments.

33. He had similarly ignored the ample evidence of Hizbollah's cynical use of human shields, which had deliberately endangered civilians. Instead, he had freely condemned Israel for civilian casualties, even though Hizbollah terrorists had deliberately hidden among civilians and launched their attack from within their ranks. It was disturbing that the report had made no reference to the responsibility of the Government of Lebanon for acts of hostility prepared and perpetrated within its territory. The report also claimed that Israel had the obligation to compensate Lebanese victims, but completely ignored the obligation of the Lebanese Government to make compensation for losses and suffering caused during a conflict that Israel had neither sought nor initiated.

34. **Mr. Chernikov** (Russian Federation) asked whether the Special Rapporteur had experienced any difficulties in his interactions with other actors, including international organizations, and whether there were any special procedures for international cooperation in areas such as the right to food, the right to development and the right to health. In that regard, he asked whether and how Member States could assist the Special Rapporteur in carrying out his mandate.

35. **Mr. Zhang** Yishan (China) said that, although the international community had proposed many initiatives concerning the long-standing issue of the right to food, including the Millennium Development Goals, it remained a contentious matter. He wondered what the Special Rapporteur saw as the largest structural issue in solving that problem and, with the growing gap between developed and developing countries, whether he deemed the right-to-food situation in the developing countries to have improved or worsened. Since the right to food was closely linked to absolute poverty, which was a grave human rights violation per se, he asked whether there was any coordination or cooperation between the Special Rapporteur and other mechanisms with a view to finding a solution.

36. **Mr. Tin** (Myanmar), while expressing great appreciation for the report of the Special Rapporteur, said his delegation was surprised that, given his wisdom and long experience, he had carelessly or deliberately described the right to food in Myanmar as precarious. Nothing could be further from the truth. His was an agricultural country, where almost half of gross domestic product and 18 per cent of exports were agriculture-based. Myanmar was food-sufficient and also exported large quantities of rice, beans, fish and fishery products.

37. FAO had called attention in March 2006 to the mere 5 per cent level of undernourishment, as opposed to 12 per cent for South-East Asia and 16 per cent for Asia and the Pacific. It had also pointed out that both the proportion and absolute numbers of undernourished

persons had fallen since the World Food Summit benchmark period of 1990-1992 and that the food supply had greatly improved since the early 1990s. Those FAO statistics gave the lie to the politically motivated allegations that Myanmar was headed towards widespread malnutrition.

38. He suspected that the Special Rapporteur had been seduced by allegations emanating from certain quarters wishing to spread false rumours that were tantamount to interference in the internal affairs of a Member State. He had obviously not consulted the FAO statistics; his delegation therefore requested that the unfounded remarks concerning Myanmar should be deleted from the report.

39. **Mr. Ziegler** (Special Rapporteur on the right to food) apologized for the fact that, owing to time constraints, he would be able to give only a brief response to each of the points raised.

40. Human rights issues were not receiving sufficient attention, and had not yet won the place in the global collective consciousness that they deserved. Some States rejected the existence of the right to food or indeed all social, economic and cultural rights. Some refused to accept certain human rights laws on the grounds that the world market would ultimately resolve extreme poverty, destitution and the destruction of populations by epidemics; that market forces alone could solve the world's problems; and that any intervention or wilful policy would simply sabotage those market forces and prove ineffective.

41. The same argument held that, if liberalization of the circulation of all capital, goods and services was total and optimal, involving all sectors, maximum profits would be reaped, ultimately benefiting all. However, such arguments were based on flawed assumptions, and contradicted the facts: while on the one hand the sweeping success of capitalism had created tremendous wealth, it had also created widespread misery, exclusion and gaping inequalities — particularly in the southern hemisphere — by concentrating that wealth in the hands of a tiny number of oligarchic leaders of the capitalist system and large international companies which controlled almost all the planet's resources.

42. Among Member States, there was a rift between those that recognized social, economic and cultural rights and those that recognized only political and civil rights as human rights. However, political and civil rights could not be separated from other human rights. Indeed, as the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in 1993 stated, all human rights were universal, indivisible and interdependent. Democracy itself hinged on the right to food. Normative action was needed, together with a decision by the Third Committee, the Human Rights Council and the General Assembly as to the kind of intervention that was needed to guarantee rights, including the right to health, schooling and housing.

43. The situation regarding the right to food in Palestine was tragic: many children were undernourished, many families had only one regular meal a day, which in itself was often insufficient, and the majority lived on foreign aid, since they were unable to produce or buy their own food. Israel's military actions and presence were to blame for the humanitarian tragedy that had unfolded, and clearly violated the right to food. The attacks on and destruction of civilian infrastructure, particularly in Gaza, were clearly war crimes under the Geneva Convention relative to the Protection of Civilian Persons in Times of War, to which Israel was party, and the Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts, which had become customary law and must therefore be respected even by non-signatories. In accordance with its international obligations, Israel must also provide compensation to Palestinians for damage resulting from the construction of the Wall in the Occupied Palestinian Territory and for damage in Lebanon and Palestine, including seizure of land and water resources.

44. He added that he greatly admired civil society organizations operating in Israel for their efforts in campaigning for an end to the occupation and colonization of territories occupied since 1967 and in promoting human rights law, specifically the right to food.

45. Foreign debt must be eliminated or at least significantly reduced in order to enable countries in debt to make capital available for investment, particularly in social infrastructure and agriculture, and there were many financial mechanisms whereby that could be achieved, depending on the specific situations of individual countries.

46. He welcomed the agreement of the Government of the Democratic People's Republic of Korea to continue to receive humanitarian aid from WFP, and called upon the Government to respond to his request to visit that country.

47. In response to the comments made by the representative of the Libyan Arab Jamahiriya, he said that privatization was not a solution if the public sector was functioning efficiently. The view that privatization yielded maximum profit was erroneous. It was vital to protect basic services, such as transportation and access to drinking water, by ensuring that they remained in the public sector and thus subject to public law, in order to prevent the exclusion of the poor.

48. Concerning the Sudan, he said that, while he recognized the progress achieved and welcomed the signing of the Darfur Peace Agreement, which reflected the good faith of the Sudanese Government, the continuing humanitarian tragedy was entirely unacceptable. In that regard, he expressed the hope that the problem of security of international humanitarian aid would soon be resolved and that peace would be achieved through negotiations.

49. During his visit to India, he had been particularly impressed with the Government's public distribution system, which ensured the right to food as a constitutional right, which was enforced by law, with cases of compensation ordered for persons displaced by hydraulic construction projects, for example.

50. As to whether the WTO Doha Round would resume, that was not clear, but it was evident that behind-the-scenes negotiations had taken place between the European Union (EU) and the United States, the EU and the Cairns Group, and others. The Director-General of WTO had refused to discuss the issue of the right to food with him, and WTO had refused to recognize the existence of social, cultural and economic rights and embraced the same neoliberal, dogmatic position as that of the United States on that matter.

51. Lebanon was right to bring up its fisheries problem that arose from the Israeli bombings of its fuel tanks, as the attacks had destroyed the coastal ecosystem and hence the livelihood of many families.

52. As to the Lebanese civilians killed and wounded in the recent attacks by Israel, he could only say that Human Rights Watch, a reliable source, had determined, on the basis of interviews with Israeli artillery officials, that the events had constituted a deliberate destruction of civilian life and infrastructure rather than "collateral damage".

53. He welcomed Cuba's respect for the right to food not only on its own territory, but in other countries, for example through the 600 doctors it had sent to staff the feeding centres in the poorest regions of Guatemala through the Fome Zero programme, launched by Brazil.

54. He agreed with the representative of Finland that the rainfed harvesting method should be generalized and promoted. He had observed the effectiveness of that method in Ethiopia and northern Brazil, where tanks collected enough rain water during the rainy season to cover the drinking, washing and some of the irrigation needs of a large family for one year.

55. In response to the comments from the representative of Mali, he agreed that the international community, and FAO in particular, should make more efforts to address the locust problem, which was costly since it required the deployment of special aircraft to destroy the insects while they were still airborne.

56. In Africa, the growing trend of desertification, brought up by the representative of Morocco, had forced some 25 million people to flee their land and villages, leaving them with no rights as refugees, since they did not fall under the 1951 Convention relating to the Status of Refugees. With other Special Rapporteurs, he was seeking to forge the concept of "ecological refugees" to see what human rights were at their disposal in order to help them react to that very painful situation.

57. Turning to the statement by the representative of Algeria, he said that transnational corporations were non-State actors which refused to submit to international human rights standards through monitoring by the international community, especially by the Special Rapporteurs and the Human Rights Council. For example, Nestle, which was much more powerful than many Governments in the world, argued that it was for the State to impose compliance with those standards.

58. In response to the criticism from the representative of Israel, he clarified that he considered Hizbollah to be an "armed branch of the Lebanese political party". Its terrorist nature or its disarmament

was up to the Lebanese Government and parliament to decide, not the Special Rapporteur. He had indeed met with two legitimate, democratically elected officials of Hizbollah, as they were key figures in the Ministry of Agriculture and the Ministry of Hydraulic and Electric Resources whom he had needed to consult in order to carry out his mandate.

59. With regard to the matter of safe passage, it was true that a line had been left open in Tel Aviv, enabling WFP to deploy food aid convoys. However, safe conduct had been denied on numerous occasions, specifically for the 22,000 people in 38 localities in southern Lebanon, who had been completely cut off. The ban on the movement of all vehicles in that region had prevented ambulances from assisting those in need, leaving many people in a dire situation. It was the Government of Israel he criticized for its serious violation of the right to food in its war with Lebanon; Israeli civil society organizations, on the other hand, had been very active in protesting the military order issued in August. That order set a bad example for other countries by giving them military reasons to justify non-respect for the right of food. Such practices should be condemned, as the transport of humanitarian aid needed to be ensured, and the work of organizations such as WFP was crucial to saving lives.

60. On the comments of the representative of the Russian Federation, he said that, while some Governments, organizations, and non-State actors did not accept a normative approach to the right to food, others, such as WFP and FAO, did.

61. He praised the Government of China for having successfully achieved food independence, especially in the light of the country's size, through its investment in agriculture and food control measures. He also welcomed China's rejection of the neoliberal approach of WTO.

62. In response to the question from the representative of Myanmar, he pointed out it was Oxfam and Action contre la faim that had stated that food security in Myanmar was precarious.

63. **Mr. Ramadan** (Lebanon) endorsed the conclusions of the Special Rapporteur and thanked him for his honest and objective reporting and the highly satisfactory responses he had given to points raised by delegations.

64. Given the universality of the right to food, it was difficult to understand why Israel had deliberately targeted humanitarian aid convoys and impeded access to the victims of its attacks on Lebanon during the summer of 2006. The fact that the Lebanese people continued to suffer as a result of the consequences of Israeli actions made such violations all the more reprehensible.

65. **Ms. Mariam** (Ethiopia) said that the measures taken by the Ethiopian Government under the food security programme, including investment in land and infrastructure, had resulted in significant progress in reducing the reliance of the peasant population on food assistance. However, while the Government remained committed to ensuring food security throughout the country under its food security programme, the failure on the part of some donor countries to fulfil their commitments continued to hinder those efforts.

66. **Ms. Ajamay** (Norway), referring to efforts to mainstream human rights within the United Nations system, noted with satisfaction that the Special Rapporteur had established close cooperation with such agencies as WFP and FAO. In that regard, it would be useful to know whether the Special Rapporteur had established similar contact with other relevant agencies such as the United Nations Development Programme (UNDP) and the World Bank, close cooperation with which was also important in view of the need for investment in longer-term development strategies in order to fulfil the right to food globally. The Special Rapporteur should therefore provide updated information on the implementation of FAO's Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security.

67. **Mr. Tin** (Myanmar), recalling that the Special Rapporteur had cited information provided by NGOs regarding the food situation in Myanmar, said that NGOs were not always independent, and indeed were sometimes biased, since they relied on funding from Western donors. Given the importance of accuracy, the Special Rapporteur should use information provided by United Nations agencies only.

68. **Mr. Afifi** (Egypt) said that without the right to food there could be no right to life, nor, consequently, to political, civil or any other rights. He asked the Special Rapporteur how it might be possible to mainstream the right to food and the universal exercise

of that right, since recognition of a right alone was insufficient to ensure that it was exercised.

69. **Mr. Ziegler** (Special Rapporteur on the right to food), replying to questions, said that the information he had received from the Lebanese Government during his visit had been very reliable and free from politicization. While in Lebanon, he had met with Government officials as well as the relevant civil servants in the field, including those working in the fisheries who had provided first-hand information on the coastal devastation caused by the Israeli invasion.

70. In response to the question raised by the Libyan Arab Jamahiriya, he said that climate change and desertification, which were at the core of his report, were increasing. Droughts currently occurred every two to three years as compared to every 8 to 12 years a decade earlier. The establishment of the Central Emergency Response Fund at the initiative of the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator was an important step towards ensuring a swifter response to humanitarian emergencies, including climate-related disasters. It was important for States to support that Fund.

71. With respect to the concerns raised by Ethiopia, the Horn of Africa faced drought, and it was estimated that more than 15 million people were at risk of hunger. He noted that the Ethiopian Government did not accept private ownership of land, which was a sound policy. Until 1974, private land had been a feudal monopoly. The ensuing dictatorship had nationalized the land in Marxist fashion. The new Government of Ethiopia had decided against reprivatization of the land, because the situation of extreme poverty in the country made it likely for a peasant family to sell its land to Somali, Yemeni or other traders for a very low price when faced with a severe crisis.

72. As to his contacts with specialized agencies to mainstream the right to food, particularly UNDP and the World Bank, UNDP was the first such agency to incorporate into its strategies respect for social, economic, cultural, political and civil rights. Any UNDP programme must ensure respect for the human rights of its beneficiaries. The World Bank was entirely different. It provided its loans grants on purely banking criteria.

73. Concerning the issue raised by Egypt, there was indeed a problem of matching words and deeds as well as ensuring control of transnational corporations by their home States. The first problem — the lack of coherence, or what he called schizophrenia — required urgent attention. The Swiss representatives accredited to the specialized agencies and to WTO tended not to communicate with one another. They were appointed by different ministries and reported to different parliamentary committees. Furthermore, although States such as France, Germany, Japan, Switzerland, the United Kingdom, the United States and others were parties to the International Covenants on Human Rights and observers or members of the Human Rights Council, their trade strategies did not take into account human rights.

74. The position of the United States, unlike many European States, was at least coherent. It considered that the right to food did not exist and that the market would resolve the problem of hunger. The United States voted in accordance with a market ideology. It had a coherent strategy for combating hunger and provided many funds to WFP.

75. There was also a need for coherence with respect to transnationals. Germany, for example, should ensure that Siemens respected all the human rights of its employees anywhere in the world; Switzerland should ensure compliance with human rights law by Nestle, Hoffmann-La Roche, Novartis and other manufacturers. The Swiss and United Kingdom Governments had an obligation to establish mechanisms to monitor the activities of Swiss and British companies, respectively, in countries such as Ethiopia to avoid the kind of devastation caused to the coffee industry by Nestle and Unilever.

76. **The Chairman** invited the Committee to continue its general discussion of sub-items 67 (b) and (c).

77. **Ms. Rehman** (Pakistan) welcomed the creation of the Human Rights Council, which she hoped would be able to overcome the problems of the selective targeting of developing countries, the lopsided focus on civil and political rights, the lack of respect for religious and cultural diversity, the imbalance between the promotion and protection aspects, and the working of the Office of the High Commissioner for Human Rights driven by donor priorities.

78. Her delegation was concerned about the marked absence of views, in reports by relevant Special Rapporteurs, on the rising trend of Islamophobia,

whereas views involving anti-Semitism were restricted, and rightly so. That imbalance cast doubts on the objectivity with which religious intolerance was being addressed.

79. Another concern was the fact that Special Rapporteurs such as the one on extrajudicial, summary or arbitrary executions had raised questions of sensitive theological jurisprudence on given religions which were completely unsolicited and beyond the purview of their mandates.

80. Furthermore, the criteria on which countries were selected for country visits had not been discussed, whereas it seemed that developing countries were frequently selected for invitation. The Special Rapporteur on the promotion and protection of human rights while countering terrorism and the Special Rapporteur on extrajudicial, summary or arbitrary executions should give more consideration to situations of foreign occupation where instances of State terrorism at the hands of occupying forces and indiscriminate killings were too often ignored. The latter Special Rapporteur should also look into the extraterritorial nature of those killings in situations of foreign occupation.

81. The right to development was crucial to meeting the challenges of poverty, global inequalities, discrimination, armed conflict, violence and the culture of impunity, and was a bridge between economic, social and cultural rights and civil and political rights. She welcomed the fact that the recommendations of the Working Group on the Right to Development — on drawing up a set of criteria for the periodic evaluation of global partnerships — had been endorsed by the Human Rights Council in its resolution 2006/4.

82. Regarding the need to implement the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, the twenty-fifth anniversary of which would take place on 25 November 2006, she noted that the Special Rapporteur on freedom of religion or belief had pointed out in her interim report (A/61/340) that some media stigmatized certain religious communities, whereas article 20 of the International Covenant on Civil and Political Rights prohibited any form of incitement to religious hatred.

83. She also agreed with the Special Rapporteur that legislation which imposed dress codes on religious grounds was a clear violation of the right to freedom of religion or belief and the Declaration, and fully endorsed the recommendation to develop a common global strategy to deal with rising religious intolerance, with a view to drawing up a universally binding instrument to combat religious intolerance.

84. **Mr. Wenaweser** (Liechtenstein), focusing his remarks on the work of the Human Rights Council and on the relationship between the Council and the Third Committee, said the Council's accomplishments to date had not lived up to the expectations of most Member States, although it might be too early to pass judgement. Support for the Council had been grounded in the belief that the mandate contained in General Assembly resolution 60/251 offered a real opportunity for a human rights discourse fundamentally different from that which had characterized the Commission on Human Rights. However, the Council's composition had turned out to be an essential element of the unsatisfactory results witnessed since June, with dialogue either not taking place or taking place only between like-minded groups and countries and failing to bridge differences of opinion. Discussions should traverse regions and interest groups and aim at tangible results.

85. His delegation had long advocated a very clear division of work between the Council and the Third Committee. Since the Council was still in its infancy, his country believed that the Committee should refrain from any decisions that would have an impact on already difficult decisions taken by the Council at its second session. In particular, it should be understood that resolutions drafted in the Committee must not affect the review of special procedures, which the Council was mandated to complete in 2007. The General Assembly should not terminate any of those mandates or create new ones. Rather, the General Assembly should take up the recommendations submitted to it by the Council, especially regarding the important instruments dealing with the rights of indigenous peoples and with enforced disappearances.

*The meeting rose at 6.15 p.m.*

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## Third Committee

**Summary record of the 31st meeting**
Held at Headquarters, New York, on Thursday, 26 October 2006, at 3 p.m.

*Chairman*: Mr. Rachkov (Vice-Chairman) ..... (Belarus)

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*In the absence of Mr. Al Bayati (Iraq), Mr. Rachkov (Belarus), Vice-Chairman, took the Chair.*

*The meeting was called to order at 3.25 p.m.*

**Agenda item 60: Social development** (*continued*)

**(a) Implementation of the outcome of the World Summit for Social Development and of the twenty-fourth session of the General Assembly** (*continued*) (A/C.3/61/L.5/Rev.1)

*Draft resolution A/C.3/61/L.5/Rev.1: "Implementation of the outcome of the World Summit for Social Development and of the twenty-fourth special session of the General Assembly"*

1. **The Chairman** said that the draft resolution under consideration contained no programme-budget implications.

2. **Ms. Hoosen** (South Africa), speaking on behalf of the original sponsors, the countries members of the Group of 77 and China, said that Albania, Andorra, Armenia, Austria, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Cambodia, Canada, Croatia, Cyprus, the Czech Republic, Denmark, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Luxembourg, Malta, Mexico, Moldova (Republic of), Monaco, Montenegro, the Netherlands, Norway, Poland, Portugal, the Republic of Korea, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Ukraine and the United Kingdom of Great Britain and Northern Ireland had joined in sponsoring the draft resolution.

3. She made the following oral revisions: in paragraph 22, the phrase "in accordance with their commitments" should be removed from the fourth line and inserted in the first line after the words "done so"; and paragraph 23 should read: "*Welcomes* the contribution to the mobilization of resources for social development by the initiatives, on a voluntary basis, taken by groups of Member States, based on innovative financing mechanisms, including those that aim to provide further drug access at affordable prices to developing countries on a sustainable and predictable basis, such as the International Drug Purchase Facility (UNITAID), as well as other initiatives such as the International Finance Facility for Immunization, and notes the New York Declaration of 20 September 2004, which launched the Action against Hunger and Poverty initiative and called for further attention to raise funds urgently needed to help meet the Millennium Development Goals and to complement and ensure long-term stability and predictability to foreign aid."

4. It had come to the attention of the Group of 77 and China that, in paragraphs 9 and 14, there were discrepancies between the final negotiated text forwarded to the Secretariat and the document the latter had produced. They took strong exception to the Secretariat's amending texts without prior consultation, even for editorial reasons. In order to reflect accurately the negotiated text, paragraph 9 should read: "*Stresses* that an enabling environment is a critical precondition for achieving equity and social development and that while economic growth is essential, entrenched inequality and marginalization are an obstacle to the broad-based and sustained growth required for sustainable, inclusive people-centred development, and recognize the need to balance and ensure complementarity between measures to achieve growth with measures to achieve economic and social equity for there to be an impact on overall poverty levels;". Paragraph 14 should read: "*Welcomes* the ministerial declaration, adopted at the high-level segment of the substantive session of 2006 of the Economic and Social Council, on "Creating an environment at the national and international levels conducive to generating full and productive employment and decent work for all, and its impact on sustainable development;".

5. The draft resolution addressed the three core priorities for social development — poverty eradication, full employment and social integration, identified at the 2005 Copenhagen World Summit for Social Development, and recognized the need to focus on accelerating the achievement of agreed targets. It stressed that an enabling environment was a critical precondition for achieving equity and social development and that international cooperation was crucial. In that regard, it aimed to strengthen the role of the Commission for Social Development in the follow-up and review of the World Summit. The draft established that an enabling environment was a critical precondition for achieving social development, and further recognized that international cooperation had an essential role to play in the effective implementation of the outcome of the World Summit for Social Development. In conclusion, she hoped the draft resolution would be adopted by consensus.

6. *Draft resolution A/C.3/61/L.5/Rev.1, as orally revised, was adopted.*

7. **Ms. Shestack** (United States of America) said her delegation was pleased to join the consensus on the draft resolution but wished to explain its position on paragraphs 22 and 23. With reference to paragraph 22, which would have the General Assembly urge developed countries that had not yet done so to make concrete efforts towards meeting the targets of 0.7 per cent of gross national product (GNP) for official development assistance (ODA) to developing countries and 0.15 to 0.2 per cent of GNP to least developed countries, the United States had far exceeded its pledge made at Monterrey regarding ODA. Her country had consistently opposed numerical aid targets for two primary reasons.

8. Firstly, with reference to paragraph 22, it believed that aid should be increased to countries committed to governing well and should be tied to results rather than to an arbitrary figure. Secondly, privately donated resources dwarfed ODA, so that the focus on a small percentage of funds was ineffective. With reference to paragraph 23, which welcomed innovative financing mechanisms that contributed to the mobilization of resources for social development, as far as her Government was concerned, the sources for financing such initiatives came from the traditional sources of ODA, the taxpayers. The main innovation seemed to be the increased lack of transparency in the transfer of those resources.

**Agenda item 99: International drug control** (*continued*) (A/C.3/61/L.8/Rev.1)

*Draft resolution A/C.3/61/L.8/Rev.1: "International cooperation against the world drug problem"*

9. **Mr. Khane** (Secretary of the Committee) announced that the draft resolution had not yet been cleared for action, because the Budget Division had not yet received from the relevant office in Vienna the information concerning paragraph 1 (a), which it needed in order to revise its statement regarding programme budget implications. He requested that action on the draft be deferred for a later stage.

10. **Ms. Feller** (Mexico) expressed surprise at the news, as the revised draft had been submitted in good time. She requested the Secretariat to arrange for action to be taken on the draft as soon as possible.

11. **Mr. Cumberbatch Miguén** (Cuba) said his delegation was quite concerned at a number of irregularities in the work of the Secretariat, such as the cessation of interpretation well before the end of the previous day's meeting with the Special Rapporteur on the right to food, an error in that day's Journal concerning draft resolution A/C.3/61/L.5/Rev.1, and the need to delay action on draft resolution A/C.3/61/L.8/Rev.1. The scheduling changes necessitated by such mistakes on the part of the Secretariat made it difficult for many delegations to consult with their capitals.

12. **Mr. Khane** (Secretary of the Committee) said the Secretariat had noted the grievances expressed by the representatives of Mexico and Cuba and would endeavour to rectify the situation. Regarding draft resolution A/C.3/61/L.8/Rev.1, he expected the information from Vienna to be available the following day, which would enable the Budget Division to revise its statement so that action could be taken on the draft resolution on Monday, 30 October.

**Agenda item 67: Promotion and protection of human rights** (*continued*) (A/61/36, 97, 220 and 280)

**(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms** (*continued*) (A/61/211, 267, 281, 287, 289, 306, 311, 312, 324, 325, 338, 340, 348, 352, 353, 384, 464, 465, 476, 506 and 513)

**(c) Human rights situations and reports of special rapporteurs and representatives** (*continued*) (A/61/276, 349, 360, 369, 374, 469, 470, 475, 489, 504 and 526)

13. **Ms. Kohli** (Switzerland) said that dealing with human rights on an ongoing basis made for greater flexibility of the system as a whole and afforded a gradual approach and regular follow-up of urgent issues and serious human rights violations. The question of the relationship between the Third Committee and the Human Rights Council, particularly the distribution of work between them, remained unresolved. With the Council going through a period of consolidation, it was too early to give a definitive answer.

14. However, there had to be an appropriate balance between the two bodies in order to avoid duplication

and make the system effective and credible. The presentation of special procedure reports to both the Committee and the Council — within a matter of weeks — was duplication of effort, and other approaches should be considered. General Assembly resolution 60/251 on the Human Rights Council set out two points of contact between the Council and the Assembly: recommendations by the Council on the development of international law, and the Council's annual report to the Assembly. Given the current transitional phase, the compromise proposal by the Philippines — which envisaged a mixed allocation between the plenary Assembly and the Third Committee — correctly reflected the interaction between the Council and the General Assembly. However, the Council had the autonomy to adopt certain decisions and recommendations and to take initiatives, for which Assembly approval was not required.

15. Not to address country situations would be incomprehensible and dangerous. In the framework of reforms, however, the manner in which country situations were treated should be changed, with preference given to a cooperative approach aimed at strengthening national protection systems. The universal periodic review was not the only instrument that could be used; country situations addressed outside that framework should involve several stages of discussion, the first of which could lead to initial recommendations, while a second phase of more substantive discussions could, if necessary, lead to the drafting of specific recommendations on technical cooperation.

16. The Council should have recourse to the review and the adoption of condemnatory resolutions only as a last resort and in situations where the Government concerned was unwilling to cooperate. Another modality available in urgent situations was the special session, which should examine all violations committed in a non-selective and balanced manner on the basis of the law. But all efforts should be guided by a rights-based approach. Establishing a system and practice that suited everyone required further reflection in a constructive spirit and with a desire for real change.

17. **Ms. Moreira** (Ecuador) said that her Government agreed with the Office of the High Commissioner for Human Rights (OHCHR) and the Special Rapporteur on the human rights of migrants in terms of the relevant rights that the States of origin, transit and destination needed to respect. While countries of origin and of destination shared the responsibility of seeking solutions to the issue of migration, the role that countries of transit played in strengthening the fight against trafficking in persons and the corruption that led to that scourge should not be overlooked.

18. Her delegation welcomed the recent High-level Dialogue on International Migration and Development, which had recognized the positive aspects of migration for migrants and their families and for countries of origin and of destination, and the challenges in the fight against illicit migration. She agreed with the Special Rapporteur that the issue of migration could not merely be analysed from an economic perspective; measures to counter the negative effects of migration needed to focus on the human aspect of the persons affected.

19. Her delegation reiterated that the conditions set out by countries receiving migrants from developing countries were not in keeping with the trends of free trade and the free transit of persons, and were highly restrictive and thus, conducive to irregular migration. In that regard, she stressed the principle of shared responsibility, as under the Asunción Declaration adopted at the South American Conference on Migration.

20. Ecuador was one of the few countries which was both a country of origin and of destination of migrants, and also received displaced persons from other nations, which made it the main country of refuge in Latin America. In that respect, it needed to draw up new policies, with support from the international community. Her country had undertaken a number of concerted actions with other countries and international bodies, including the International Organization for Migration (IOM), as well as civil society and the public sector, and through a bilateral agreement with Spain guaranteeing work contracts with equal conditions for nationals and migrants.

21. The principle of sovereignty should not undermine the rights of migrants, but should guarantee them. The regularization of migrants benefited both countries of origin and countries of destination. Integration schemes should facilitate migration and broaden the aspect of the free transit of persons, in line with that of goods, services and capital.

22. **Mr. Fakhroo** (Qatar) said that the universality of human rights should not detract from the need to respect the diversity of civilizations and cultures and that lack of development should not serve as a pretext for neglecting human rights. Human rights went hand in hand with development, peace and security, which in turn depended on the right of peoples to self-determination and the principle of non-discrimination on the basis of class, ethnicity or religion.

23. Qatar had established many institutions to protect human rights and achieve a partnership between Government and civil society. It was working closely with the Office of the United Nations High Commissioner for Human Rights (OHCHR) to take the final steps for establishing the United Nations Human Rights Training and Documentation Centre for South-West Asia and the Arab Region in Qatar. His country had recently hosted a number of international human rights gatherings, and was scheduled to host the upcoming sixth International Conference of New or Restored Democracies.

24. **Ms. Rashidova** (Uzbekistan) said that her Government had taken steps to establish effective mechanisms to protect the rights and freedoms of its citizens, to reform the judicial system and guarantee a genuinely independent judicial branch and to create new democratic national extrajudicial human rights institutions. It should be noted that such reforms were taking place in stages. They were aimed at promoting the rule of law and social justice; human rights protection; and the separation of powers.

25. Uzbekistan had established entirely new national human rights institutions within the legislative and executive branches in the light of the Vienna Declaration and Paris Principles, including the post of a parliamentary human rights ombudsman in 1995. Efforts were being made to redress civil rights violations, revise legislation, raise awareness among the population about their rights and develop international cooperation. A national human rights centre prepared and submitted her Government's periodic reports to the six main United Nations human rights treaty bodies and promoted human rights education. NGOs such as the Bar Association and others played a particular role in human rights protection. Their activities made it possible to carry out the principle: "From a strong State to a strong civil society".

26. In addition to reform measures to ensure independent courts, criminal and criminal-procedure legislation had been adopted to ensure that the rights and interests of persons were protected. As a result, the number of persons sentenced to prison in the previous three years had decreased from 76,000 to 34,000. In addition, presidential decrees had been adopted on the repeal of the death penalty and on transferring to the courts the power to issue detention orders. Lastly, her Government was determined to continue its thorough democratic reforms in the area of human rights protection and stood ready to cooperate with the relevant United Nations human rights bodies and mechanisms in that area.

27. **Mr. Chabar** (Morocco) said that his Government had embarked on an irreversible path to democracy, the rule of law and good governance while drawing on the tolerant precepts of Islam, its time-honoured civilizational values and its international commitments in the area of human rights and fundamental freedoms. Furthermore, the Moroccan Constitution reaffirmed his Government's adherence to universally recognized human rights. Genuine strengthening of the rule of law was the best guarantee for attaining the sustainable development of the individual and community alike. Widely recognized as a crossroads for different civilizations and cultures, Morocco had emerged as a strong actor for peace, tolerance and understanding between nations and continued its efforts to promote intercultural and inter-religious dialogue.

28. Morocco had ratified most of the international human rights instruments and undertaken to submit regular national reports on the implementation of its multilateral commitments. The previous five years had witnessed a considerable increase in the pace of reforms, notably in the adoption of new laws, the harmonization of national legislation with international commitments and the setting up of governmental structures and national follow-up institutions.

29. Efforts to promote human rights were reflected in a series of legislative reforms involving civil and political rights in particular as well as the relevant economic rights under the international human rights instruments to which Morocco was a party. Those reforms addressed penal and criminal-procedure law as well as prison administration, entry and stay of foreign nationals in Morocco, political parties, sexual harassment in the workplace, freedom of the press and other areas. In addition, his Government had adopted

legislation to combat torture, as defined under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

30. National human rights institutions such as the Advisory Council on Human Rights had been reorganized on the basis of the Paris Principles. His Government had ordered inquiries into complaints of torture and continued its efforts at the regulatory and institutional level to put a definitive end to the past legacy of forced disappearance and arbitrary detention through the rehabilitation of victims. An Ombudsman was responsible for mediating between citizens and public authorities and investigated complaints of administrative acts deemed unfair or illegal. Lastly, a national institution had been established to promote and protect Berber culture and heritage and integrate the Berber people into the national education system.

31. Morocco was promoting national human rights education at all levels, including institutions which trained judges and State officials. In an effort to enhance the status of women, his Government had adopted a new Family Code, which made gender equality one of the foundations of Moroccan society. It had also launched an initiative to reduce social inequalities and achieve sustainable social and economic development based on local government, good governance and rational and transparent resource management. Morocco had made human rights and fundamental freedoms one of the pillars of its national and foreign policies and would spare no effort to promote that cause within the Human Rights Council.

32. **Ms. Na-Allah** (Niger) said that her Government had had in place a multiparty system since November 1990 in response to political demands put forward by trade unions, NGOs and civil society. Much progress had been made in the area of human rights since that time thanks to a number of measures taken and mechanisms established. The political and institutional reforms of the previous decade had aimed at strengthening the democratic process and rule of law. The coming to power of her Government in 1999 following democratic presidential and legislative elections had ended a decade of political and institutional instability and paved the way for policies to promote sustainable development.

33. The advent of democracy in the Niger made the rise of a dynamic civil society possible. There were a number of human rights organizations in the Niger which continued to grow and develop, including the National Commission for Human Rights and Fundamental Freedoms, which monitored the human rights situation in the country, put forward recommendations to the public authorities on relevant legislation and organized workshops and seminars. It was made up of Government officials, traditional leaders as well as members of human rights organizations, women's organizations, the bar, professional associations, trade unions and others.

34. The Niger had ratified most of the international human rights instruments, including the Universal Declaration of Human Rights, the African Charter on Human and People's Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and others. Lastly, the Niger was witnessing the emergence of a thriving private press, which was increasingly professional, making objective information available to the entire population.

35. **Mrs. Blum** (Colombia) said that her Government attached importance to the right to development, which was crucial to the full exercise of other rights and fundamental freedoms, and was implementing policies to strengthen its human and social capital in that context. She called on the international community to strengthen cooperation on that matter. Her country supported all the international initiatives aimed at jointly combating the scourge of terrorism. The measures that it took in that regard, including through multilateral treaties, domestic legislation and institutional procedures for investigating, trying and penalizing terrorist activities, were applied on the basis of respect for the rule of law and human rights.

36. Colombia had ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and looked forward to the report that the Representative of the Secretary-General on internally displaced persons would be introducing before the Human Rights Council about his recent visit to Colombia. Her country had a national programme for displaced persons which was based on dignity and the restitution of their rights, and it was a Government priority to ensure the social and economic integration of displaced persons in their places of origin or resettlement. The programme included such activities as the provision of emergency care for all displaced persons, which had covered 82 per cent of affected persons, and the promotion of

the return of families, with assistance from the State and the Office of the United Nations High Commissioner for Refugees.

37. Colombia had made particular progress in ensuring the right to health and education of displaced persons, including through subsidized health care, guaranteed access to education for children, training for adults, and housing subsidies for families, and also, provided monthly subsidies to families in vulnerable situations or extreme poverty. The Government had adopted a range of security measures — including ensuring the presence of State forces in every municipality of the country and the massive demobilization of illegally armed groups — which had helped bring about a gradual drop in the number of new cases of displacements since 2002.

38. A series of recommendations in the report of the Representative were being implemented. The country had legal and policy frameworks specifically governing the protection of internally displaced persons and had a national body assigned to that task. Significant resources were allocated to the programme for them. Lastly, she welcomed the contributions that various countries had provided to her Government to enable implementation of relevant programmes.

39. **Ms. Petersen** (Bolivarian Republic of Venezuela) said that the Venezuelan Constitution established that all treaties, covenants and conventions concerning human rights signed and ratified by Venezuela had constitutional rank and took precedence over domestic laws where their provisions relating to the enjoyment and exercise of such rights were more favourable than those established by the Constitution and national laws. The Office of the Ombudsman was responsible for ensuring that those rights were fulfilled. It was imperative to ensure unconditional respect for the universality, indivisibility, interrelatedness, interdependence and mutually reinforcing nature of all human rights and compliance by States with the 1993 Vienna Declaration and Programme of Action. Economic, social and cultural rights should be treated on an equal footing with civil and political rights.

40. The Bolivarian Republic of Venezuela, convinced of the importance of fostering international cooperation in order to ensure the exercise of all rights, particularly economic, social and cultural rights, had made every effort to engage in cooperation activities, both as a beneficiary and as a provider of international assistance. It had implemented various social programmes aimed at guaranteeing rights in the areas of health, education at all levels, food and food security, from which all sectors of society had benefited, but particularly the most vulnerable and excluded individuals and groups. Throughout South America, her country had conducted activities in the area of visual health and cooperation in education with a view to eradicating illiteracy in the region.

41. The use of human rights issues as a means of advancing political interests, particularly by powerful countries, undermined understanding among nations, violated the principles and norms established under the Charter of the United Nations and were detrimental to international peace and security. Selectivity, lack of objectivity and political manipulation also undermined the credibility of institutions, as in the case of the Commission on Human Rights. In that regard, the Bolivarian Republic of Venezuela firmly rejected any attempt to extend the competence to address human rights issues to United Nations bodies that did not otherwise have such competence. It condemned the application of unilateral coercive measures by any State, irrespective of the nature of such measures or the methods used to apply them, as a means of preventing another State from exercising the right to self-determination. Such measures were at odds not only with the Charter of the United Nations but also with international law, and their consequences for trade and development had a detrimental impact on the enjoyment and exercise of human rights, particularly among the most vulnerable sectors of the population.

42. With respect to forced disappearances, a special commission had been established under the authority of the Venezuelan National Assembly to investigate murders, disappearances and torture of Venezuelan nationals during the 1960s, 1970s and 1980s. The will of the Government to combat impunity was demonstrated by the fact that persons found guilty by the Commission of human rights violations committed during that period, irrespective of rank, were punishable by imprisonment for a term of three to 30 years. The Bolivarian Republic of Venezuela was committed to combating all terrorist acts and practices, which violated all human rights. However, it appeared that the means used by some States purportedly to combat terrorism were themselves akin to terrorist practices. In that regard, it should be recalled that Venezuelan terrorist and fugitive from justice

Luis Clemente Posada Carriles remained under the protection of the United States Government, which refused to comply with its obligation to extradite him. States should form a united front in the fight against terrorism, and should not attempt to draw a distinction between "good terrorism" and "bad terrorism". No act of terrorism or violation of human rights could be justified.

43. In addressing migration, it was important to take into account the deep-rooted causes underlying the displacement of persons from their countries of origin, which had an impact on the living conditions of migrants and their families. All States concerned shared responsibility for addressing the phenomenon, and should reaffirm the need to respect the human rights of migrants and their families, irrespective of their migrant status. The proposed construction of a wall along the border between the United States of America and Mexico was a unilateral measure that contravened the principles of international law, contradicted the ideals of integration, unity and respect for human rights and disregarded the value of dialogue in understanding the sensitivity of the migration issue. In the past, walls and barriers had served no good purpose, and such actions could not be construed as positive in any way.

44. The sovereign power of a State to regulate the entry and stay of foreign nationals on its territory and to determine the status of migrants should be exercised in accordance with international human rights law. Her country therefore rejected any attempt in the region to discriminate against or criminalize migrants in contravention of the principles and norms of mutual respect that should prevail among States, particularly those linked by geographical proximity. In that regard, it reiterated its absolute and unconditional solidarity with Mexico. While the Bolivarian Republic of Venezuela supported all actions aimed at building the capacity of States to promote, protect and guarantee human rights through their national institutions, States themselves bore primary responsibility in that regard. The principles set out in the Vienna Declaration and Programme of Action were the key to successful multicultural dialogue with a view to achieving world peace through genuine respect for diversity.

45. **Ms. Núñez Mordoche** (Cuba) said that the establishment of the Human Rights Council had appeared to usher in a new era of cooperation in the area of human rights, following lengthy negotiations during which some had sought to place the Council at the service of their geopolitical interests and to use it as a court in which to judge others. Now, however, those same States were once again making vociferous statements and assertions against allegedly troublesome countries on the basis of false, incomplete and manipulated information, yet at the same time turned a blind eye to the flagrant and widespread human rights violations committed daily by their allies. Such States had neither the moral right nor the authority to criticize or judge other societies.

46. Genuine dialogue on cooperation on human rights issues called for change in the unjust international order in which neoliberal globalization had excluded the majority of the world population from access to the planet's resources and certain States sought profits at the expense of other countries — particularly through overexploitation of the natural resources of countries of the South — without regard for environmental degradation. It was intolerable that the very countries that denied developing countries access to markets and new technologies, controlled the international financial institutions, insisted that onerous foreign debt continue to be paid and encouraged cuts in social expenditure, while turning a blind eye to widespread hunger, poverty, illiteracy and lack of access to education in developing countries, should lecture others on good governance and the rule of law.

47. States must seek social justice through respect for the sovereign control by States of their natural resources and full exercise of the right to self-determination. Yet the path towards true social justice was fraught with the dangers of condemnation, stigmatization and defamation by States that were prepared to take brutal and coercive unilateral measures against those that dared to challenge them. The triumph of the Cuban Revolution in January 1959 had laid the foundations for the fuller enjoyment of all human rights by Cuban nationals and the elimination of discrimination based on gender, skin colour or social class. The United States of America had condemned the Revolution, yet had been unable to prove even a single extrajudicial execution or disappearance. Cuban prisoners had never been abused or humiliated. Cuba cooperated with its sister nations; it sent doctors to remote areas, conducted activities to increase literacy and offered scholarships to youths from any social background, without demanding anything in return.

48. The so-called "democracy" that the United States of America had brought to Cuba for more than 60 years of neocolonial domination had resulted only in corruption and negligence in the face of the hardships suffered by the great majority of the population, who were mired in hunger, illiteracy and poverty, and the imposition of brutal dictatorships that had sought to silence the justified demands of the people. The sovereign right of the Cuban people to self-determination had been subject to an intense campaign of aggression promoted and financed by successive United States administrations, and their human rights denied as a result of the criminal policy of economic, commercial and financial blockade. The new measures taken by the current United States administration, set out in the report of the so-called "Commission for Assistance to a Free Cuba", constituted a further attempt to end the freedom and independence of the Cuban people, destroy the society that they had chosen for themselves and undermine their rights.

49. In order to strengthen international cooperation on human rights, the principles of universality, objectivity, impartiality and non-selectivity must form the pillars of that cooperation. The initiatives promoted by Cuba within the framework of the Third Committee were aimed at restoring the international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights could be fully realized. The future work of the Human Rights Council would be useful only if double standards, politicization and blackmail were eliminated. The promotion and protection of all human rights would only be possible in a different world.

50. **Mr. Kim** Pil-woo (Republic of Korea) welcomed the significant progress achieved in 2006 in promoting and protecting human rights, particularly the launch of the Human Rights Council, which reflected the political will of Member States to achieve progress in the area of human rights and their recognition that peace and development could not be achieved unless all rights were fully respected and exercised. The Republic of Korea commended the Council's achievements in establishing international standards through its adoption of the International Convention on the Protection of All Persons from Forced Disappearance and the United Nations Declaration on the Rights of Indigenous Peoples. It also welcomed the entry into force of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the finalization of the text of the draft international convention on the rights of persons with disabilities.

51. However, the continuing violations of human rights and fundamental freedoms in many parts of the world, particularly in Darfur and the Middle East as a result of ongoing conflict and violence, were deeply troubling and severely damaged the cause of human rights advocacy. Urgent action must be taken to address such abuses and to ameliorate the conditions that gave rise to them. The Republic of Korea was concerned that the Human Rights Council had not yet taken any decisions on concrete measures to address those situations. While much of the Council's work in its first year must inevitably focus on institution-building, the Council was looked to for appropriate action to help meet the wide range of challenges that urgently required its attention.

52. The Republic of Korea had been actively involved in the work of the human rights bodies within the United Nations system, and was acting on the pledges that it had made when presenting its candidature for membership of the Human Rights Council. At the national level, it was taking the necessary steps to withdraw its reservations to and ratify United Nations human rights instruments, including the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Elimination of All Forms of Discrimination against Women, and was also preparing to accede to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

53. In accordance with United Nations recommendations, the Republic of Korea was drafting a national plan of action on human rights for 2007-2011, which would contain various proposals for policies relating to the protection of socially vulnerable and minority groups. It was also actively promoting the amendment of existing legislation and the introduction of new legal provisions for the advancement of human rights in a wide range of areas, including gender equality, labour rights and minorities. Human rights issues must be pursued in tandem with security and development. To that end, it was necessary to achieve tangible results and maintain the momentum generated by the Human Rights Council.

*The meeting rose at 5.10 p.m.*